

MEETING NOTICE

A meeting of the
Bayside Local Planning Panel
will be held in the Committee Room, Botany Town Hall
Corner of Edward Street and Botany Road, Botany
on **Tuesday 23 September 2025 at 5:00 PM**

ON-SITE INSPECTIONS

On-site inspections are undertaken beforehand.

AGENDA

1 ACKNOWLEDGEMENT OF COUNTRY

Bayside Council acknowledges traditional custodians: the Gadigal and Bidjigal people of the Eora nation, and pays respects to Elders past, present and emerging. The people of the Eora nation, their spirits and ancestors will always remain with our waterways and the land, our Mother Earth.

2 APOLOGIES

3 DISCLOSURES OF INTEREST

4 MINUTES OF PREVIOUS MEETINGS

Nil

5 REPORTS – PLANNING PROPOSALS

Nil

6 REPORTS – DEVELOPMENT APPLICATIONS

6.1 DA-2025/8 - 55-61 Bonar Street, Arncliffe - Development Application2

6.2 DA-2024/309 - 1-5 Charles Street Arncliffe NSW 2205 - Development
Application78

Members of the public, who have requested to speak at the meeting, will be invited to address the Panel by the Chairperson.

The meeting will be video recorded and live streamed to the community via Youtube.

Meredith Wallace
General Manager

Bayside Local Planning Panel

23/09/2025

Item No	6.1
Application No	DA-2025/8
Property	55-61 Bonar Street, Arncliffe
Application Type	Development Application
Proposal	Integrated Development - Demolition of existing structures, tree removal, and construction of an eight (8) storey residential flat building containing thirty (30) residential units, three (3) levels of basement car parking, and associated landscaping
Owner	Bonar St Arncliffe Pty Ltd
Applicant	Arcadia Construction (NSW) Pty Ltd
Ward	Ward 2
Lodgement Date	22/01/2025
No. of Submissions	31
Cost of Development	\$9,001,956
Reason Criteria	Sensitive development
Report by	Peter Barber, Director City Futures

Reason for the Report

This application has been referred to the Bayside Local Planning Panel (BLPP) for the following reasons:

- In accordance with Section 2 in Schedule 1 from the Local Planning Panels Direction issued by the Minister for Planning and Public Spaces (dated 6 March 2024), the proposal is a contentious development as it is the subject of 10 or more unique submissions by way of objection.
- In accordance with Section 3 in Schedule 1 from the Local Planning Panels Direction issued by the Minister for Planning and Public Spaces (dated 6 March 2024), the proposal is a development that contravenes a development standard imposed by an environmental planning instrument by more than 10%; and,
- In accordance with Section 4 in Schedule 1 from the Local Planning Panels Direction issued by the Minister for Planning and Public Spaces (dated 6 March 2024), the proposal is deemed to be a sensitive development in which Chapter 4 of the State Environmental Planning Policy (Housing) 2021 applies (formerly State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development); and,

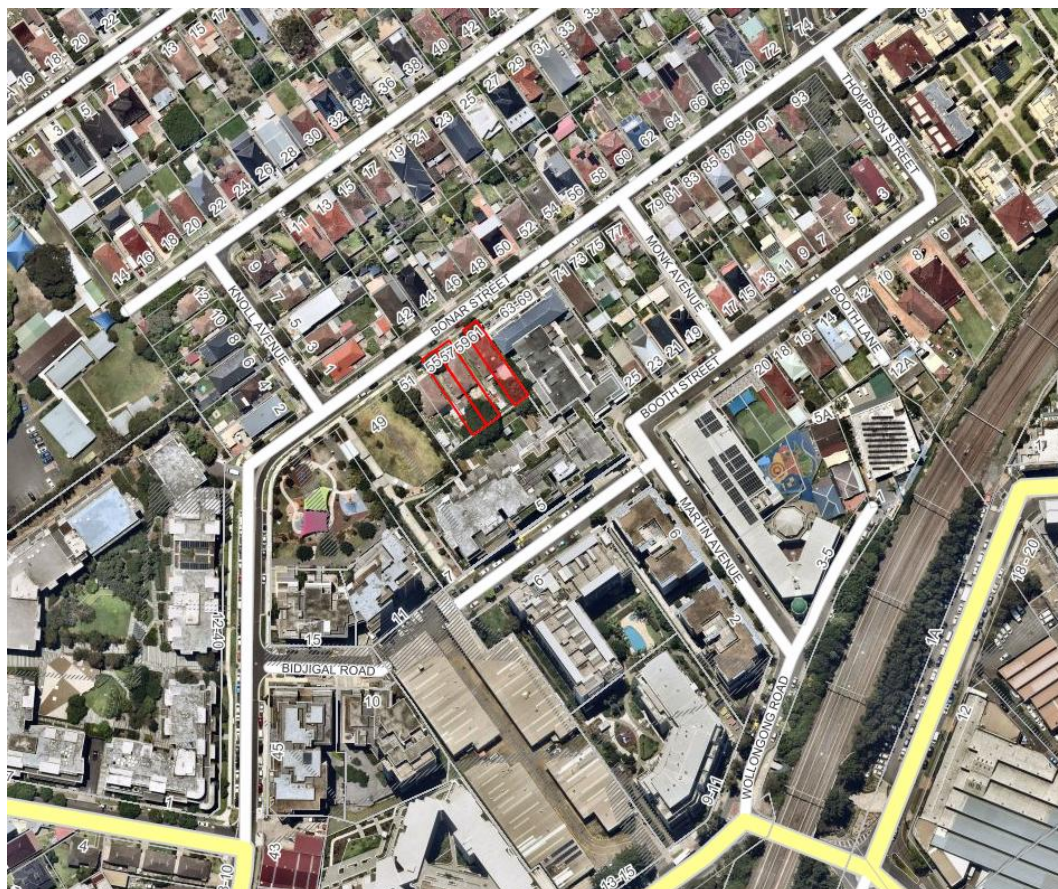
Officer Recommendation

1. That the Bayside Local Planning Panel is satisfied that the applicant's written request to contravene Section 4.3 of the Bayside Local Environmental Plan 2021 has adequately addressed the matters required to be demonstrated by Section 4.6 of that Plan, and the

proposed development will be in the public interest because it is consistent with the objectives of that particular standard and the objectives for development within the zone.

2. That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Development Application DA-2025/8 for Integrated Development - Demolition of existing structures, tree removal, and construction of an eight (8) storey residential flat building containing thirty (30) residential units, three (3) levels of basement car parking, and associated landscaping at 55-61 Bonar Street, Arncliffe by **REFUSING CONSENT** subject to the reasons for refusal detailed in the planning assessment report.
 3. That the submitters are to be notified of the Panel's decision.
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Location Plan



Attachments

- 1 [↓](#) Assessment Report
- 2 [↓](#) Section 4.6 Variation - Height of Building
- 3 [↓](#) Site Plan
- 4 [↓](#) Elevations
- 5 [↓](#) Sections
- 6 [↓](#) Materials and Finishes

BAYSIDE COUNCIL

Planning Assessment Report



Application Details

Application Number:	DA-2025/8
Date of Receipt:	22 January 2025
Property:	55-61 Bonar Street, ARNCLIFFE (Lots C, D, E and F in DP 28085)
Owner:	Bonar St Arncliffe Pty Ltd
Applicant:	Arcadia Construction (NSW) Pty Ltd
Architect:	Place Studio
Town Planner:	BMA Urban
Proposal:	Integrated Development - Demolition of existing structures, tree removal, and construction of an eight (8) storey residential flat building containing thirty (30) residential units, three (3) levels of basement car parking, and associated landscaping
Recommendation:	Refusal
No. of submissions:	31
Author:	Andrew Ison, Senior Development Assessment Planner
Date of Report:	8 September 2025

Key Issues

The key issues identified in the assessment of the development application relate to:

- **Class 1 appeal with Land and Environment Court:** A Class 1 appeal was lodged with the Land and Environment Court as a deemed refusal on 28 August 2025.
- **Infill Affordable Housing:** The applicant is seeking to benefit from the 30% bonus for Floor Space Ratio (FSR) and Height of Building as prescribed under Chapter 2 of the Housing SEPP 2021.

- **Calculation of gross floor area:** The applicant has omitted the bin storage areas on each floor and there are two additional car parking spaces above the maximum rates prescribed in both the Housing SEPP and Bayside DCP and hence additional gross floor area is proposed. Notwithstanding, the addition of these results in a total gross floor area under the 30% FSR bonus. However, the total number of proposed affordable units is under the revised 15% minimum required to be dedicated as affordable housing.
- **Uplift to height of building above 30% bonus:** The proposed development is seeking a further variation above the 30% bonus as prescribed under Section 17 of the Housing SEPP 2021 for the front portion of the site (to 23.4 metres). A Section 4.6 variation has been prepared by the applicant and the variation is supported.
- **Owner's consent / Stormwater drainage:** The proposed stormwater connection through neighbouring sites is not supported as the drainage system will subsequently need to traverse through a Council Park and owner's consent has not been obtained from Council to allow an easement to be created which will burden Council property. It has been recommended that the stormwater system be redesigned to extend the existing underground drainage system in Bonar Street to the site frontage for the site to connect into. This will avoid the need for an easement to drain water.
- **Tree removal:** The proposal includes removal of 16 site trees including a significant Moreton Bay Fig tree. On balance, insufficient information has been provided to support removal of the Moreton Bay Fig tree, however removal of other trees appears acceptable.
- **Design Review Panel (DRP):** The application was reported to the DRP on two occasions. On the second occasion, it was concluded that further amendments were still required.
- **Registered housing provider:** Pursuant to Section 21 of the Housing SEPP, a registered community housing provider has not been nominated by the applicant.
- **Communal Open Space:** The proposal includes insufficient communal open space area for the development as a large portion of the ground floor area will not enjoy an acceptable level of amenity in mid-winter
- **Deep soil:** A portion of the deep soil area sits atop the on-site detention tank which is not supported.
- **Front setback to Bonar Street:** There are not adequate landscape treatments to the street edge. Whilst the minimum landscaped area of 5 metres to Bonar Street has been demonstrated, only approximately 1.6 metres is deep soil (i.e. free of the basement levels below).
- **Landscaping:** Unresolved matters relating to tree retention, tree planting, soil depths for above structure planting and stormwater structure details.
- **Site isolation:** Insufficient information has been provided to properly assess whether the neighbouring sites at 51 and 53 Bonar Street can be suitably developed with relation to an assessment against the planning principle, however, some information has been provided with relation to indicative building envelopes for the neighbouring site as well as a break-through wall for all three levels of basement.

- **Wind assessment:** An amended statement was required to be provided in the request for information (RFI) letter as there is an increase in the number of storeys, however, this was not provided. Therefore, Council has insufficient information to complete an assessment and is a reason for recommending refusal of this application.
- **Noise assessment:** An amended statement was required to be provided in the request for information (RFI) letter as there is an increase in the number of storeys, however, this was not provided. Therefore, Council has insufficient information to complete an assessment and is a reason for recommending refusal of this application.
- **Road widening:** A strip at the front of the site has been identified within the Land Reservation Acquisition Map as land reserved for certain public purposes. The relevant acquisition authority in this instance is Council. The area at the front of the site is identified as "Local Road Widening" and is to be dedicated to Council accordingly.
- **Loading / unloading:** The amended plans do not include adequate clearance height for the required Small Rigid Vehicle (SRV) to access the loading bay.
- **Floor to Floor heights:** The proposal includes 3.1m floor to floor heights while best practice to achieve 2.7m internal ceiling height and NCC compliance is 3.2m.

The development application ("DA") has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* ("the Act") and is recommended for refusal.

The officers involved in writing and authorising this report declare, to the best of their knowledge, that they have no interest, pecuniary or otherwise, in this application or persons associated with it and have provided an impartial assessment.

Recommendation

1. THAT the Bayside Local Planning Panel is satisfied that the applicant's written request to contravene Section 4.3 of the Bayside Local Environmental Plan 2021 'Height of Buildings' has adequately addressed the matters required to be demonstrated by Section 4.6 of that Plan, and the proposed development will be in the public interest because it is consistent with the objectives of that particular standard and the objectives for development within the zone.
2. THAT the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Development Application DA-2025/8 for Integrated Development - Demolition of existing structures, tree removal, and construction of an eight (8) storey residential flat building containing thirty (30) residential units, three (3) levels of basement car parking, and associated landscaping at 55-61 Bonar Street, Arncliffe by **REFUSING CONSENT** for the following reasons:
 - a) Pursuant to the provisions of Sections 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development will result in the unacceptable loss of significant trees that will have an adverse impact on the amenity of the area as well as environment and is not in the public interest.

- b) Pursuant to the provisions of Sections 4.15(1)(a)(i) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, an insufficient gross floor area has been provided with relation to affordable housing which is contrary to Section 16 of the State Environmental Planning Policy (Housing) 2021.
- c) Pursuant to the provisions of Sections 4.15(1)(a)(i) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided with relation to the nominated units being used for affordable housing for at least 15 years which is contrary to Section 21 of the State Environmental Planning Policy (Housing) 2021.
- d) Pursuant to the provisions of Section 4.12 of the Environmental Planning and Assessment Act 1979 and Section 23 of the Environmental Planning and Assessment Regulations 2021, owner's consent has not been obtained from Council to permit proposed stormwater drainage across Council owned land.
- e) Pursuant to the provisions of Sections 4.15(1)(a)(i), and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development will not provide for a sufficient amount of communal open space which is contrary to Part 3D of the Apartment Design Guide.
- f) Pursuant to Section 4.15(a)(i) of the Environmental Planning And Assessment Act 1979, the proposed development does not satisfy the zone objective for R4 High Density Residential in ensuring that land uses are carried out in a context and setting to minimise impact on the character and amenity of the area.
- g) Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development.
- h) Pursuant to the provisions of Section 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development provides insufficient detail with relation to stormwater management which is contrary to Section 6.3 of the Bayside Local Environmental Plan.
- i) Pursuant to the provisions of Sections 4.15(1)(a)(i), and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development does not provide for sufficient building separation which is contrary to Part 3F of the Apartment Design Guide.
- j) Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development provides an insufficient front setback which is contrary to Part 7.5 of the Bayside Development Control Plan 2022.
- k) Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development provides an insufficient landscape detail which is contrary to Part 3.7 of the Bayside Development Control Plan 2022.

- l) Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development has not provided sufficient evidence that the neighbouring sites will not be isolated which is contrary to Part 4.6 of the Bayside Development Control Plan 2022.
 - m) Pursuant to the provisions of Section 4.15(1)(a)(iii) and 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to allow a proper and thorough assessment with relation to noise and vibration effects of the proposed development which is contrary to Part 3.14.1 of the Bayside Development Control Plan 2022.
 - n) Pursuant to the provisions of Section 4.15(1)(a)(iii) and 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to allow a proper and thorough assessment with relation to wind effects of the proposed development which is contrary to Part 3.14.4 of the Bayside Development Control Plan 2022.
 - o) Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 and for the reasons set out above, the proposed development is not considered to be in the public interest.
3. THAT the submitters be notified of the Panel's decision.

Background

History

The following applications have previously been considered by Council in relation to the subject site:

- DA-2021/381 – Demolition of existing structures and construction of a part four (4) and part six (6) storey residential flat building containing 26 apartments, roof top communal open space and basement parking was approved on 26 July 2022 by the Bayside Local Planning Panel
- MDA-2023/45 – Modification to DA-2021/381 to extend the deferred commencement lapsing period by 12 months was approved on 24 April 2023 under delegated authority
- MDA-2023/68 – Modification to DA-2021/381 to include a new stormwater easement connecting to Council's stormwater system was approved on 26 August 2023 under delegated authority
- MDA-2024/56 – Modification to DA-2021/381 to deferred commencement and operational conditions relating to milestones for registration of the easement was approved on 20 June 2024 under delegated authority

The history of the subject application is summarised as follows:

- 22 January 2025 – The DA was lodged with Council
- 3 February – Start of the notification period, which ended on 5 March. A total of 31 submissions were received, including one in support
- 6 March – Referred to the Bayside Design Review Panel (DRP), with the recommendation that further amendments were to be made for consideration at a future meeting

- 2 May – The Request for Information (RFI) letter was sent to the applicant, with matters raised relating to amended architectural plans, addressing the DRP Minutes, car parking, stormwater management, landscaping, site isolation, updated acoustic and wind reports and addressing the submissions
- 18 June – RFI response lodged with the applicant
- 3 July – Referred to the Bayside DRP for a second time, with the recommendation that further amendments were to be made for consideration at a future meeting
- 6 August – Second RFI letter sent to the applicant, specifying unresolved matters not suitably addressed from the first RFI letter, with the recommendation that the application is to be withdrawn
- 20 August – Written confirmation received from the applicant that this application will not be withdrawn
- 28 August – A Class 1 appeal was lodged with the Land and Environment Court as a deemed refusal

Proposal

The subject application seeks consent for Integrated Development - Demolition of existing structures, tree removal, and construction of an eight (8) storey residential flat building containing thirty (30) residential units, three (3) levels of basement car parking, and associated landscaping.



Figure 1: 3D View of proposal as seen from Bonar Street (supplied by the applicant)

Demolition

- Demolition of existing dwellings and associated structures at 55, 57, 59 and 61 Bonar Street

Tree Removal

- Removal of 16 trees

Excavation

- Excavation for three levels of basement

Basement Level 3

- Car parking for 14 vehicles
- Storage
- Services
- Fire stairs
- Lift access

Basement Level 2

- Car parking for 17 vehicles
- Parking for 15 bicycles
- Storage
- Fire stairs
- Lift access

Basement Level 1

- Car parking for 6 vehicles
- One car wash bay
- Parking for 2 motorcycles
- Parking for 18 bicycles
- Waste rooms
- Storage
- Fire stairs
- Lift access

Residential flat buildings

- Eight (8) storey residential flat building with 30 residential units
- Mix – 8 x 1 bedrooms, 13 x 2 bedrooms and 9 x 3 bedrooms
- 5 affordable housing units (all on Level 1)

Ground Level

- 5 residential units (3 x 1 bedrooms and 2 x 2 bedrooms)
- Driveway access off Bonar Street
- Lobby entry off Bonar Street
- Services
- Communal open space area

Level 1

- 5 residential units (1 x 1 bedrooms, 3 x 2 bedrooms and 1 x 3 bedrooms)

Level 2

- 6 residential units (2 x 1 bedrooms and 4 x 2 bedrooms)

Level 3

- 6 residential units (2 x 1 bedrooms and 4 x 2 bedrooms)

Level 4

- 2 residential units (2 x 3+ bedrooms)
- Communal open space

Level 5

- 2 residential units (2 x 3 bedrooms)

Level 6

- 2 residential units (2 x 3 bedrooms)

Level 7

- 2 residential units (2 x 3 bedrooms)

Roof

- Lift over run
- Services and plant
- Solar panels

Landscaping

- Landscaping at ground level within the public domain and within the communal open space areas.

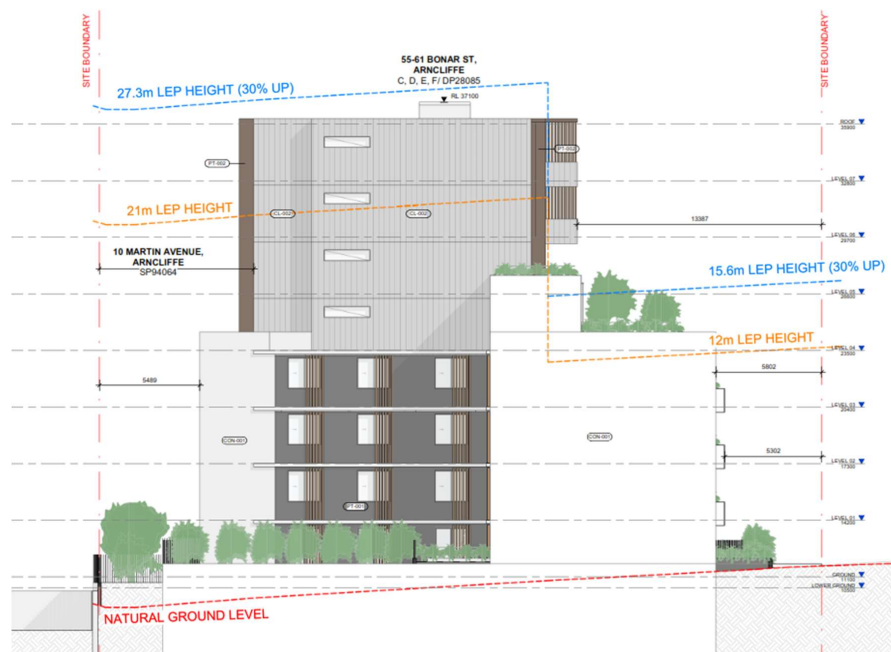


Figure 2: Northern elevation (supplied by the applicant)



Figure 3: Eastern (rear) elevation (supplied by the applicant)

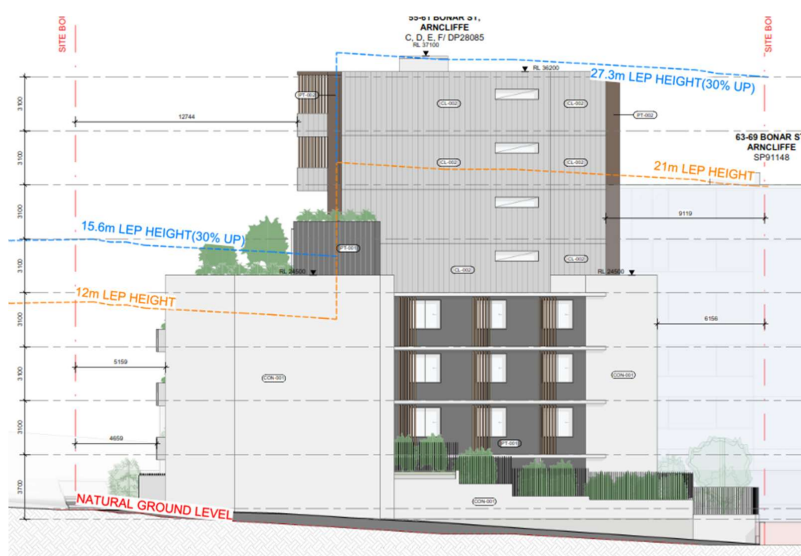


Figure 4: Southern elevation (supplied by the applicant)



Figure 5: Western (Bonar Street) elevation (supplied by the applicant)

Site Location and Context

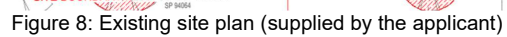
The subject site is located at 55, 57, 59 and 61 Bonar Street, Arncliffe (Lots C, D, E and F in DP 28085). The proposed development site has a frontage of 30.6 metres to Bonar Street, a rear boundary length of 30.6 metres, and a total length of 39.65 metres along both the eastern and western boundaries, with a total site area of 1,213m².



Figure 6: Aerial showing subject sites, marked in red (Source: Bayside IntraMaps)

A street scene in a residential area. In the foreground, a white pickup truck is parked on the right side of the road. A silver car is parked further back on the left. The background features modern multi-story apartment buildings and a large, leafy tree. Power lines are visible overhead.

Figure 7: Subject sites as viewed from Bonar Street



Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979* ("the Act").

S4.46 – Development that is Integrated Development

The proposal is Integrated Development in accordance with the Water Management Act 2000 as the development is deemed to be a specified controlled activity as excavation works for the basement will intercept groundwater. In this regard, the Development Application was referred to Water NSW. On 30 May 2025, Water NSW provided General Terms of Approval (GTAs).

S4.15 (1) - Matters for Consideration - General

S4.15 (1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 2 – Standards for residential development (BASIX)

The applicant has submitted a BASIX Certificate for the proposed development, being Certificate number 1775735M.

Commitments made within BASIX certificates result in reductions in energy and water consumption on site post construction. A condition has been recommended to ensure that the stipulated requirements are adhered to. The proposal is satisfactory in this regard.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in non-rural areas

Section 2.6(1) of this SEPP prescribes that a person must not clear vegetation in a non-rural area without the authority conferred by a permit granted by the Council.

This SEPP applies to the proposal as the development proposal includes the removal of 16 trees throughout the site, including one within the public domain on Bonar Street, and also one neighbouring tree at 53 Bonar Street which will require negotiations with the neighbouring owner.

The applicant lodged an Arboricultural Impact Assessment, prepared by arboreport and dated 20 July 2021, with all trees to be removed as per Figure 9 below (source – applicant).

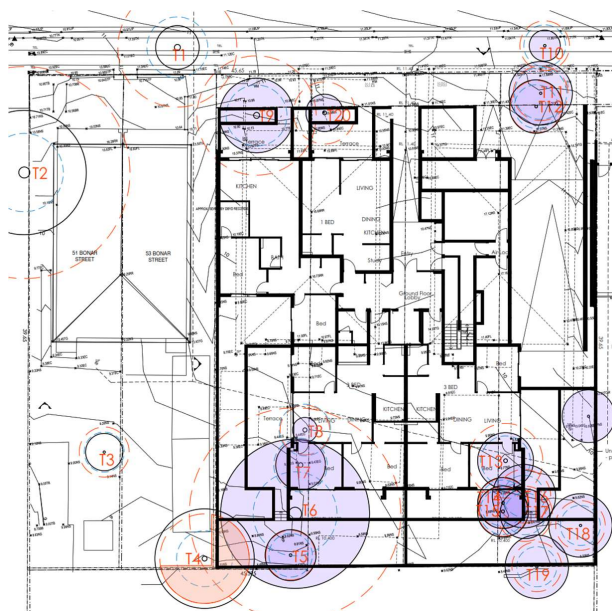


Figure 9: Tree location plan, with hose highlighted in purple proposed to be removed

The recommendation from the DRP was that the large mature Moreton Bay Fig tree in the south-western corner of the site (T6 in Figure 9 above) was to be retained as it will provide positive amenity to the proposed communal open space area.

In the second DRP meeting on 3 July 2025, it provided the following commentary:

The Panel was not provided with sufficient material to understand the impacts that retaining the significant tree to the rear would have on the basement and building design. The applicant advised the Panel that studies were undertaken to confirm its retention is not possible; the Panel strongly recommend that Council requires these studies be provided to Council if its removal is supported.

Studies should include:

- *Plans to demonstrate impact to basement to achieve a max 10% incursion on the TPZ*
- *Any alternate basement circulation studies to demonstrate that there is no alternative to what is currently being presented*

In light of the above, insufficient information has been provided to justify removal of the Moreton Bay Fig tree. Therefore, on balance, the proposal is not considered to be acceptable in regards to this SEPP. If approval was recommended, conditions including retention of Tree 16 and a 3:1 ratio relating to three trees to be planted for every one removed would have been imposed.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 – Remediation of Land

The applicant has provided the following documentation as part of the application:

- Preliminary Site Investigation with Supplementary Sampling, prepared by Canopy Enterprises and dated December 2021

The report concludes that the site is suitable for the proposed land use and Council's environmental scientist has accepted the recommendations contained within the report as being satisfactory. If approval was recommended, standard conditions would have been imposed relating to the management of contamination including asbestos removal and importation of fill.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Section 2.48 – Development likely to affect an electricity transmission or distribution network

The application is subject to Section 2.48 of the SEPP as the development proposes works within the vicinity of electricity infrastructure and therefore in accordance with this Section the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and take into consideration any response to the notice that is received within 21 days after the notice is given.

The application was referred to Ausgrid for comment. No objections were raised to the proposed development, subject to the imposition of conditions

The proposal satisfies Section 2.48 of the SEPP.

Clause 2.77 – Development Adjacent to Pipeline Corridors

The development is located approximately 365 metres south-west of the Moomba to Sydney Ethane Pipeline at the closest point. The proposal is for a residential flat building which is a sensitive development.

The application was referred to APA Group for comment. They had no concerns given that the proposed development:

- Is not for a sensitive use under AS2885 (use by members of the community who may not be able to protect themselves from the consequences of a

The proposal satisfies Clause 2.76 of the SEPP.

State Environmental Planning Policy (Housing) 2021

Chapter 2 – Affordable Housing

Section 13A – Application of Chapter 4 to affordable housing

The proposal is for 'in-fill affordable housing' pursuant to Part 2, Division 1 of this chapter and is also for residential apartment development under Chapter 4 'Design of Residential Apartment Development'.

Section 15 – Requirement for imposition of conditions – the Act, s 7.32(3)(a)

If approval was recommended, conditions would have been imposed relating to the use of the subject site as affordable housing.

Section 15C – Development to which this division applies

The subject sites are permissible with consent under the Bayside LEP, the affordable housing component is at least 10% (discussed further below) and is on land in an accessible area (approximately 600 metres walking distance to Arncliffe railway station). The proposal does not include affordable housing required under another chapter of this policy (or another EPI or planning agreement).

Section 16 – Affordable housing requirements for additional floor space ratio

A maximum floor space ratio (FSR) standard of 1.8:1 (gross floor area (GFA) of 2,134m²) is mapped under the Bayside LEP 2021.

As per this Clause, an additional floor space ratio of up to 30% is permissible, based on a minimum 10% affordable housing component being provided.

An additional 30% on top of the FSR is 2.34:1 (total GFA of 2,838.4m²). The applicant has claimed that the proposal has a maximum FSR of 2.21: 1 (GFA of 2,658.37m²). However, the applicant has omitted the bin storage rooms on each floor, one unnamed room on ground level as well as two additional car parking spaces in the basement as being above the maximum car parking rates. This results in a revised GFA of approximately 2,779m² (FSR of 2.29:1).

As per the formula in subclause 2, the applicant has calculated 15% of the total proposed gross floor area to be provided for affordable housing. 15% of the claimed 2,658m² is 398.75m². However, as per the previous paragraph, a revised figure factoring in the additional GFA would result in a minimum 15% being 417m².

A total of five affordable housing units is proposed, those being Units 101, 102, 103, 104 and 105 (all on Level 1). The total GFA of these units is 399m². In light of the above, an insufficient amount of GFA has been dedicated to affordable housing, and a minimum of one additional unit is required to be dedicated. If approval was recommended, a condition would have been imposed in relation to a minimum of 417m² of GFA to be dedicated to affordable housing.

Section 18 – Affordable housing requirements for additional height of building

An additional height of building of up to 30% also applies to the site.

The subject sites have two different height of building development standards mapped under the Bayside LEP 2021 – 12 metres in an area closes to Bonar Street and 21 metres for the remainder. This is shown below:



The non-compliance is discussed later in this report under the LEP section of this report.

The following table summarises these standards and compliance of the proposal:

Standard	Requirement	Proposed	Complies
Section 19(2)(a) - Minimum site area	450m ²	1,213m ²	Yes
Section 19(2)(b) – Minimum internal areaLandscaped area	30% of the site area (363.9m ²)	398.47m ²	Yes
Section 19(2)(c) – Deep Soil Zone	Not Applicable as Chapter 4 applies to this development.	N/A	N/A
Section 19(2)(d) – Solar Access	Not Applicable as Chapter 4 applies to this development.	N/A	N/A

Section 19(2)(e) - Car parking (affordable housing units)	• 0.4 spaces per 1-bedroom unit • 0.5 spaces per 2-bedroom unit • 1 space per 3-bedroom (or greater) unit	1 x 1 bed unit = 0.4 3 x 2 bed unit = 1.5 1 x 3 bed unit = 1 Total = 2.9 spaces	Refer to car parking assessment under DCP section later in this report
Section 19(2)(f) - Car parking (other units)	• 0.5 spaces per 1-bedroom unit • 1 space per 2-bedroom unit • 1.5 spaces per 3-bedroom (or greater) unit	7 x 0.5 = 3.5 10 x 1 = 10 8 x 1.5 = 12 Total = 25.5	Refer to car parking assessment under DCP section later in this report
Section 19(2)(g) - Internal area	Meet the requirements in the Apartment Design Guide (ADG)	Minimum internal areas are satisfied for each of the units. Refer to ADG assessment later in this report	N/A

Clause 20 – Design Requirements

Subclause 3 states:

(3) *Development consent must not be granted to development to which this Division applies unless the consent authority has considered whether the design of the residential development is compatible with—*

- (a) *the desirable elements of the character of the local area, or*
 (b) *for precincts undergoing transition—the desired future character of the precinct.*

The proposal is generally consistent with the desired future character, however this is subject to changes being made to address issues identified throughout this report.

Clause 21 - Must be used for affordable housing for at least 15 years

If the recommendation was for approval, a condition would have been included reinforcing this requirement. The applicant stated that it would be managed by a registered community housing provider, however, one was not nominated.

Clause 22 - Subdivision permitted with consent

The proposal does not involve subdivision.

Chapter 4 – Design of residential flat buildings

In accordance with Section 145(2) of this SEPP, the consent authority must take into consideration the following:

(a) *The advice of the Design Review Panel (DRP)*

This DA was reported to the DRP on 6 March 2025, with the recommendation that further amendments were to be made for reconsideration by the DRP at a later date.

Upon the lodgment of amended plans, it was reported back to the DRP for a second time on

3 July 2025. Its recommendation was that further changes were to be made and be referred to the Panel for further consideration. The DRP identified a broad range of matters that required attention, with the key issues being:

- Fire stair access dominates the front setback area, which is not supported
- Insufficient detail provided on sustainability
- The lobby area requires re-design
- The ground floor rear landscape area should not be included as communal open space as per the Apartment Design Guide calculations
- Access to the rear units at ground level should have low level fencing integrated with landscaping
- Several units have kitchens that receive no natural light
- Individual entries to the ground floor units are to address Bonar Street
- Height of southern boundary fence is to be considered
- The large Moreton Bay Fig tree at the rear is to be retained
- Removal of lightwells to provide more useable and unencumbered outdoor space

The above matters remain unresolved.

(b) The design quality of the development when evaluated in accordance with the design quality principles.

The design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

Principle 1: Context and Neighbourhood Character

The subject site is located within the Bonar Street Precinct area and is zoned R4 High Density Residential as prescribed under the Bayside LEP 2021. The existing streetscape of Bonar Street is generally characterised by lower density single dwelling housing, with the exception of an existing residential flat building at 63-69 Bonar Street.

The primary zone objectives for the R4 High Density Residential zone is to provide for the housing needs of the community within a high density residential environment, to provide a variety of housing types within a high density residential environment, to enable other land uses that provide facilities or services to meet the day to day needs of residents, to ensure land uses are carried out in a context and setting to minimise impact on the character and amenity of the area and to enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling. Accordingly, this is an area that has gradually been undergoing transition, with a number of residential flat buildings recently approved in this area, particularly to the east of the subject site at Bidjigal Road and Wollongong Road.

The proposal is generally consistent with the desired future character, subject to changes to address issues identified throughout this report. It generally meets the relevant development standards in the Bayside LEP 2021 (with the exception of the Height of Building, which is found to be acceptable in the context and will be further discussed later in this report) and most of the relevant standards in the Apartment Design Guide (ADG) as prescribed under this SEPP and controls in the Bayside DCP 2022.

DRP Minutes

Little regard has been given to the retention of an existing large tree – or replacement of the

tree with similar a species that will provide similar amenity to the subject site and broader context.

Principle 2: Built Form and Scale

The built form of the proposed development will contribute towards the evolving nature of the streetscape and character for the southern side of Bonar Street, with respect to the scale, bulk and height of the building, and also the manipulation of building elements adding visual interest from the street. Internal amenity, outlook and surveillance opportunities are provided through the location of living areas and the communal open space is located at ground floor at the rear as well as on Level 4.

DRP Minutes

The fire stairs are to be combined to improve the front setback and landscaped edge to the street, as well provide privacy to the dwellings. All fire stairs should be in-board of the building footprint as having open fire stairs within the front setback area is not supported.

Principle 3: Density

The proposed development is within the 30% bonus allowed under Chapter 2 of the Housing SEPP. The resulting density is considered acceptable with respect to the bulk and scale of the development. Numercially, there is sufficient communal open space (although this is insufficient from an amenity perspective) as well as private open space areas. The application of these principles means that it is not considered to be overdevelopment of the site. It is in within walking distance of a number of public parks and reserves, as well as schools.

DRP Minutes

The additional affordable housing is a positive change to the development. However, consideration is to be given to the adjacent building and its potential to be redeveloped as well as the site itself. A workable proposal for the development of the two houses should be provided as part of this development application

Principle 4: Sustainability

The applicant has submitted a BASIX Certificate, demonstrating that the proposal achieves the relevant energy efficiency standards as specified by the Sustainable Buildings SEPP. It complies with the minimum 70% requirement of the proposed apartments living area windows and private open space (balconies) needing to receive at least two hours sunlight between 9am and 3pm in midwinter.

DRP Minutes

Insufficient detail has been provided relating to sustainability measures proposed (and/or commitments). Measures should include:

- provision of solar panels on the roof
- use of integral building materials
- stormwater harvesting and reuse
- EV charging for vehicles and bicycles
- use of fans within apartments
- all electric appliances

Principle 5: Landscape

Landscape details have been provided, with respect to the public domain at ground level, the communal open space areas as well as the private courtyard areas. The landscape plan has been reviewed by our Landscape Architect and further amendments are required and will be discussed in further detail under the DCP section of this report.

DRP Minutes

- Retention of large tree (Moreton Bay Fig) at ground level
- The elevated communal space to the north is supported however the lack of a BBQ is a missed opportunity. This should be integrated into the design to encourage communal use.
- The central void in the elevated communal space serves no purpose with additional balustrading and the small planter overly complicated.
- The configuration of the communal open space to the southern boundary would have limited use given the southern aspect and planning. The Panel support this being converted to a planting buffer with deep soil, maintained as common property. This would provide an increased visual buffer to the adjacent property to the south and increase the ecological value of the project.
- In the instance that the large Ficus is removed the Panel request a greater diversity of tree planting sizes to the rear of the property. Tree sizes should increase up to 200L in size.

Principle 6: Amenity

The design provides a level of amenity for future occupants by providing appropriate room dimensions, suitable solar access to most units, natural ventilation, appropriately sized courtyards and balconies for each residential unit and ease of access for all age groups and degrees of mobility. The ground floor communal open space space is not in an acceptable location given its southern orientation and is to be relocated.

DRP Minutes

- The lobby experience is unacceptable and unsafe. The security line / secure access gate must be provided closer to the street to ensure a clear and safe path of travel is provided.
- Access to rear units at ground level should have low level fencing integrated with landscaping
- Rear garden areas are not considered by the Panel to be a workable communal space due to the size, overshadowing, location and privacy concerns between dwellings and outdoor space. This space should be strata controlled to ensure screening trees are provided but should not be credited to ADG communal open space metrics.
- Several units have inboard kitchens without access to natural light, which should be reconsidered.
- Consider combining fire stairs to limit egress to a singular point to the street. Rework fire stairs to ensure windows are not directly over fire stair egress to maintain privacy from dwellings
- Introduce fine grain to street edge by providing individual entries and pathways to ground floor dwellings
- Consider reducing southern boundary fence height to minimise impact onto adjacent neighbour's private open space

- Consider designated BBQ spaces in communal spaces
- Consider removing large lightwells to provide more useable and unencumbered outdoor space
- Consider retention of existing fig tree at the rear – or if unable to retain, a minimum 200L tree species should be provided.

Principle 7: Safety

It provides for an easily identifiable residential lobby entry off Bonar Street. Residential apartments and car parking areas on site will be accessible via a secure electronic system. Common areas will be well lit with clearly defined legible pathways.

DRP Minutes

- Lobby experience is unacceptable and unsafe. Security access must be provided closer to the street to ensure a clear and safe path of travel is provided

Principle 8: Housing Diversity and Social Interaction

The proposed development will provide for a mixture of housing types that will cater for different budgets and housing needs. This will aid in addressing housing affordability.

DRP Minutes

The provision of affordable housing in the local area is supported by the Panel.

Principle 9: Aesthetics

The proposal incorporates a varied palette of colours and materials to create visual interest when viewed from the public domain. Materials proposed include but are not limited to face brick, cements panels, aluminum louvres and metal cladding. These materials will provide a modern, contemporary, high quality and visually appealing development on site.

DRP Minutes

Acceptable.

(c) the Apartment Design Guide

The proposal has been assessed against the Apartment Design Guide (ADG) The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

Section	Design Criteria	Proposed	Complies
<i>Part 3 Siting the Development</i>			
Part 3D: Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site.	The communal open space on Level 4 has a total area of 175m ² , which is equal to % of the site.	No – see Note 1
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the	Insufficient detail has been provided to demonstrate that the ground floor	No – see Note 1

Section	Design Criteria	Proposed	Complies
	communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (midwinter).	communal open space area can satisfy this requirement.	
Part 3E: Deep Soil Zones	For sites between 650m ² and 1,500m ² , a deep soil area equal to 7% of the site and with a minimum dimension of 3m	The total area of unencumbered deep soil proposed is approximately 90m ² or 7.4%.	Yes – see Note 2
Part 3F: Visual Privacy	Up to 4 storeys: 6m between habitable/balconies and non-habitable 3m between non-habitable rooms	Compliance demonstrated	Yes
	5-8 storeys: 9m between habitable/balconies and non-habitable 4.5m between non-habitable rooms	Rear units are between 8.5m and 8.8m, otherwise compliance is demonstrated	No – See Note 3
Part 3J: Car Parking	On sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less	Car parking rates are compliant, refer to DCP section	Yes
Part 4 Designing the Building			
Part 4A: Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at midwinter.	The living rooms and private open space areas for 26 out of the 30 units (86.7%) receive at least 2 hours of direct sunlight between 9am and 3pm in mid-winter.	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am	4 out of the 30 units (13.3%) receive no direct sunlight between 9am and	Yes

Section	Design Criteria	Proposed	Complies
	and 3 pm at mid-winter	3pm in mid-winter.	
Part 4B: Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	22 out of the 30 units (73.3%) will be naturally cross ventilated.	Yes
Part 4C: Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: • 3.3m for ground floor to promote future flexibility of use • 2.7m for habitable rooms • 2.4m for non-habitable rooms	3.1m for residential levels	Yes – see Note 4
Part 4D: Apartment Size and Layout	Apartment are required to have the following minimum internal areas: • 1 bedroom: 50m² • 2 bedrooms: 70m² • 3 bedrooms: 90m² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each.	The minimum area for the 1-bedroom units are 50m ² . The minimum area for the 2-bedroom units are 78m ² . The minimum area for the 3-bedroom units are 104m ² .	Yes
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	All habitable rooms have windows of acceptable size to facilitate acceptable solar access and natural ventilation.	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	The habitable room depths comply.	Yes
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	The size of all bedrooms complies.	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms have a minimum dimension of 3m, excluding wardrobe space.	Yes

Section	Design Criteria	Proposed	Complies
	Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1-bedroom apartments • 4m for 2- and 3-bedroom apartments	The width of the studio and 1-bedroom units is at or greater than 3.6m, and the width of the 2-bedroom units is at or greater than are 4m.	Yes
	The width of crossover or cross through apartments are at least 4m internally to avoid deep narrow apartment layouts.	The width of each apartment is greater than 4m.	Yes
	The width of crossover or cross through apartments are at least 4m internally to avoid deep narrow apartment layouts.	The width of each apartment is greater than 4m.	Yes
Part 4E: Private Open Space and Balconies	All apartments are required to have primary balconies as follows: • Minimum area of 8m² and minimum depth of 2m for 1-bedroom units • Minimum area of 10m² and minimum depth of 2m for 2-bedroom units • Minimum area of 12m² and minimum depth of 2m for 3-bedroom units The minimum balcony depth to be counted as contributing to the balcony area is 1m.	The minimum area for the balconies are met.	Yes
Part 4F: Common Circulation and Spaces	Maximum number of apartments off a circulation core on a single level is eight	The maximum number of apartments off a circulation core on a single level is six	Yes
	Daylight and natural ventilation should be provided to all common circulation spaces that are above ground	Lobbies and areas of common circulation will be naturally lit.	Yes
Part 4G: Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following	There is a mixture of storage located within the units as well as	Yes

Section	Design Criteria	Proposed	Complies
	storage is provided: • 6m ³ for 1-bedroom units • 8m ³ for 2-bedroom units • 10m ³ for 3-bedroom units At least 50% of the required storage is to be located within the apartment.	within the basement areas.	

Note 1 – Communal open space

Numerically the proposed communal open space area achieves the minimal 25% site area requirement. However, as discussed earlier in this report, the ground floor component is not considered to be a workable space due to the size, overshadowing in mid-winter and privacy concerns with neighbouring properties. Whilst it is to be retained as a deep soil area, it cannot be characterised as communal open space and is to be relocated to either an expanded Level 4 area or to the rooftop. If approval was recommended, this amendment would have been imposed as a condition.

Note 2 – Deep soil

The applicant has claimed an area of 125.9m² (10.3%) of deep soil in their landscape calculations. However, a portion of this area sits atop an on-site detention tank and hence cannot be included as part of the calculations. Notwithstanding, the deletion of this area from these calculations (approximately 35m²) results in a revised area of 90m² (7.4%) and thus still satisfies the 7% minimum requirement.

Note 3 – Building separation

The rear units from Levels 5 to 7 are situated within the 9 metre building separation zone, with a number of openings proposed.

Note 4 – Floor to floor heights

The proposal includes 3.1m floor to floor heights while best practice to achieve 2.7m internal ceiling height and NCC compliance is 3.2m. Amended plans should be provided to ensure NCC compliance is achieved.

Bayside Local Environmental Plan 2021

The following table outlines the relevant Clauses of Bayside Local Environmental Plan 2021 ("the LEP") applicable to the proposal, while aspects warranting further discussion follows:

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
2.3 Zone and Zone Objectives R4 High Density Residential	Yes - see discussion	Yes - see discussion

2.7	Demolition requires consent	Yes - see discussion	Yes - see discussion
4.3	Height of buildings	Yes - see discussion	Yes - see discussion
4.4	Floor space ratio ("FSR")	Yes - see discussion	Yes - see discussion
4.6	Exceptions to development standards	Yes - see discussion	Yes - see discussion
5.1	Relevant acquisition authority	Yes - see discussion	Yes - see discussion
6.1	Acid Sulfate Soil - Class 5	Yes - see discussion	Yes - see discussion
6.2	Earthworks	Yes - see discussion	Yes - see discussion
6.3	Stormwater and water sensitive urban design	No - see discussion	No - see discussion
6.7	Airspace operations	Yes - see discussion	Yes - see discussion
6.11	Essential services	Yes - see discussion	Yes - see discussion

Section 2.3 – Zone

The subject site is zoned R4 High Density Residential under the provisions of the LEP. The proposal is defined as a residential flat building which constitutes a permissible development only with development consent. The objectives of the zone are:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure land uses are carried out in a context and setting to minimise impact on the character and amenity of the area.
- To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.

The proposal is considered to be consistent with a number of these zone objectives, that being that it will provide for a development that will meet housing needs and provide a variety of housing and also enable residential development in accessible location. However, there remains unresolved matters as discussed throughout this report and on balance it is considered that in its current form that it does not minimise impact on the character or amenity of the area.

Section 2.7 – Demolition

The proposal seeks consent for demolition of the existing buildings and associated structures. In this regard, the proposal satisfies the provisions of this Section.

Section 4.3 – Height of Buildings

Subject to additional height of building, as discussed earlier in this report under the Housing SEPP section, and subject to clause 4.6 variation as discussed below.

Section 4.4 – Floor Space Ratio

Subject to additional floor space ratio, as discussed earlier in this report under the Housing SEPP section.

Section 4.6 – Exceptions to Development Standards (Height of Building)

The subject sites have two different height of building development standards mapped under the Bayside LEP 2021 – 12 metres in an area closest to Bonar Street and 21 metres for the remainder.

Applying the 30% bonus to both of these standards results in additional height of 15.6 metres and 27.3 metres respectively.

In the area where the 15.36 metre standard applies there are portions of the building that has a breach ranging from 650mm (4.2%) to 8.1 metres (52.9%).

The proposal results in variations from the standard, as follows:

- **Apartment parapets of 4.01 and 4.02 and balcony spaces of 5.01 and 5.02:** Apartment parapet of unit 4.01 and balcony space of 5.01 exceeds the height by a range of 1.1m and 1.45m. And apartment parapet of unit 4.02 and balcony space of 5.02 exceeds the height by a range of 650mm and 950mm. Maximum respective height are 17.05m and 16.55m heights representing maximum variations of 9.2% and 16% over the maximum allowable height being the base LEP height inclusive of the SEPP 30% bonus.
- **Balcony spaces of apartments 6.01 and 6.02:** Maximum respective height of 20.6m and 19.75m, representing respective variations of 5m or 32% and 4.15m or 26.6% over the maximum allowable height being the base LEP height inclusive of the SEPP 30% bonus.
- **Balcony spaces of apartments 7.01 and 7.02:** Maximum respective height of 23.7m and 22.8m, representing respective variations of 8.1m or 51.9% and 7.2m or 46.1% over the maximum allowable height being the base LEP height inclusive of the SEPP 30% bonus.

It is noted that the majority of the building is sited within the allowable transitional height envelope (i.e. within the 27.3m maximum Height of Building area).

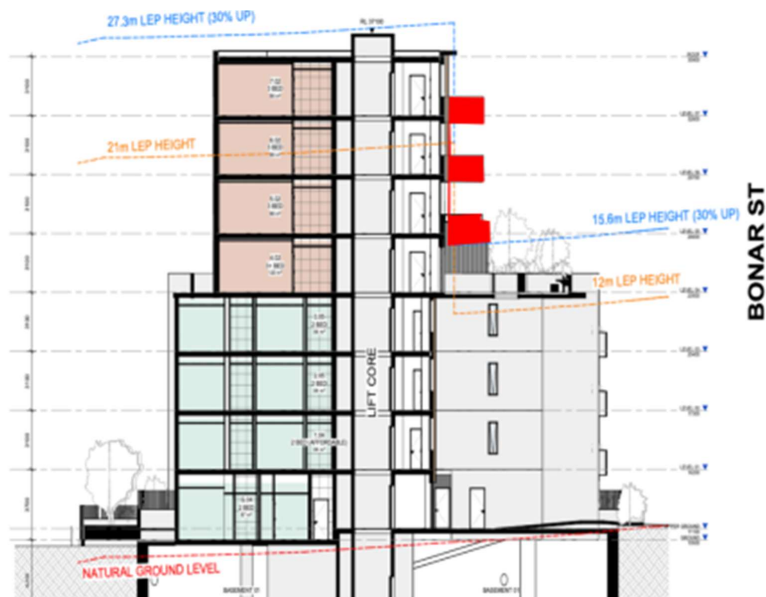


Figure 11: Section drawing showing the height variation (supplied by the applicant)

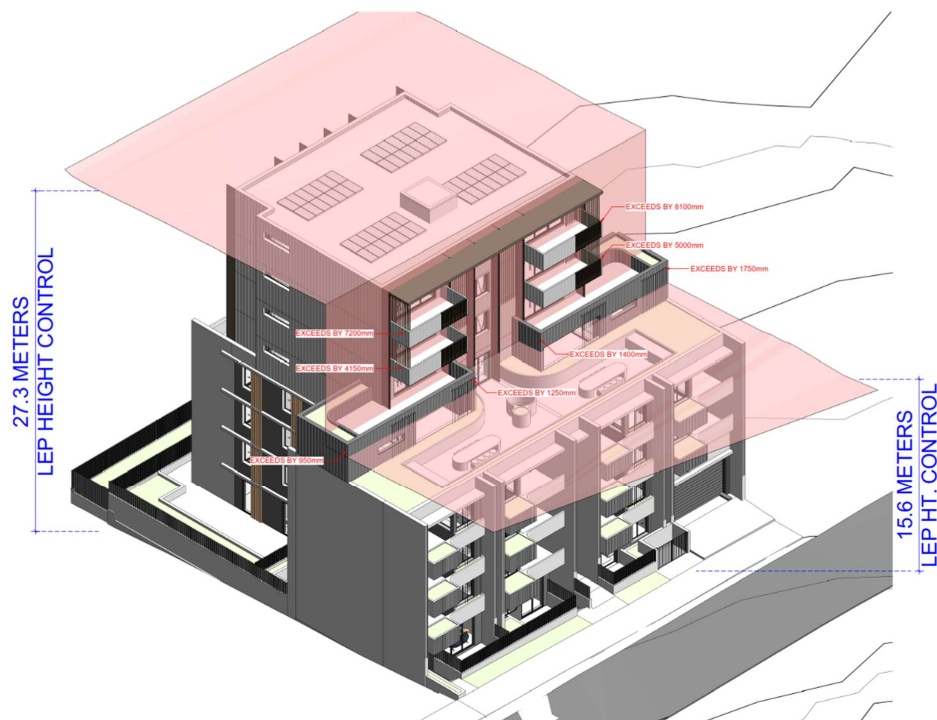


Figure 12 – Height plane diagram showing non-compliances with maximum building height (supplied by applicant)

The applicant's Section 4.6 request argues that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to support the non-compliant Height of Building.

Clause 4.6 of the LEP allows a variation to a development standard subject to a written request by the applicant justifying the variation by demonstrating:

Section (3)(a)- that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and
Section (3)(b)- that there are sufficient environmental planning grounds to justify the variation.

The assessment of Section 4.6 below has been undertaken in accordance with the principles established by the Chief Judge in ***Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*** where it was observed that:

- in order for there to be 'sufficient' environmental planning grounds to justify a written request under section 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole; and
- there is no basis in Section 4.6 to establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development.

The applicant is seeking to contravene the Building Height as outlined previously. A contravention request in accordance with Clause 4.6 of the LEP, seeking to justify the proposed contravention, has been prepared by BMA Urban.

The applicant's Clause 4.6 contravention request argues that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case there and are sufficient environmental planning grounds to support the non-compliant Building Height. These components are summarised below, with the assessing officer's response provided:

Section 4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,

Applicant Comments/Arguments (summarised):

The objectives of the standard are achieved notwithstanding non-compliance with the standard.

With relation to the objectives of Section 4.3 of the LEP:

- The desired future character of the neighbourhood must be set by the existing, recently approved and proposed buildings within the neighbourhood. The locality is anticipated to undergo further change and an increase in density, consistent with the planning controls, its accessible location and proximity to public transport. When considering the proposed variations, they constitute a minor component of the building and noting their recessive nature and form whereby the breaching elements remain suitably integrated into the overall form of the building, their retention will in no way hinder the proposal's ability in remaining contextually compatible with the character of the area. The burden on insisting on strict compliance would result in the removal of the outer wing bedroom areas

of apartments 4.01 and 4.01 and a number of required balcony spaces which would be an unreasonable and unnecessary outcome given the bulk, scale and character of the proposal remains compatible with the locality despite the height breaches.

- The extent of non-compliance has been predominately centralised within the built form peripheries and in doing so, any visual perception of height breach has been minimised.
- The height breach does not result in any adverse additional privacy impacts beyond a compliant building envelope.
- Any additional shadow cast by the breaching elements will not cause an adverse level of additional impact.
- The proposed variation will not result in any significant loss of views or outlook compared to a building with a compliant height.
- The built form provides a residential flat building form which is entirely consistent with the number of storeys envisaged by the LEP and bonus afforded by the SEPP.

Council assessment:

The arguments provided above are generally agreed with and are well founded, and complies with the first method in the Wehbe test, that being that the objectives of the standard are achieved notwithstanding non-compliance with the standard. The quantum and location of the contravention to the height control is relatively minor in nature, and also the variations are only for balconies and parapet, with these elements breaking up the built form. As such, the contravention to the height control is deemed to be reasonable and necessary in this instance. The objectives of the relevant Building Height standard are as follows:

- (a) *to ensure that building height is consistent with the desired future character of an area,*
- (b) *to minimise visual impact of new development, disruption of views, loss of privacy and loss of solar access to existing development,*
- (c) *to nominate heights that will provide an appropriate transition in built form and land use intensity.*

The proposal is considered consistent with the objectives of the development standard because:

- The proposed development will result in a building height that is consistent with the desired future character of the area.
- The variation to the height control is located centrally and also minimal
- The proposed upper four floors are set well back and will not result in any detrimental or unreasonable impacts in relation to views, privacy, and overshadowing.
- The variation to the height standard will not dominate the locality or set an undesirable precedent.

Section 4.6(3)(b) - Are there sufficient environmental planning grounds to justify contravening the development standard?

Applicant Comments/Arguments (summarised):

- The maximum extent of non-compliance is a result of the interface between the two building height development standards and topography of the subject site. The uppermost building form complies with the prescribed height (including bonus) applicable to the land.

However, the non-compliant elements across the preceding lower levels, extend in part beyond the permissible building height envelope as a result of the interface between the two standards. Of relevance, the built form of the four (4) storey podium fronting Bonar Street is well compliant with the 15.6m building height noting that the height breach is only evident from Levels 5 and 8 which are set well into the curtilage of the built form envelope and will therefore, having no adverse visual bearing on streetscape volume.

- In accordance with the above, the northern elevation of the building fronting Bonar Street is the part of the building which will have the most bearing on character of development in the locality. When viewed from adjoining properties and the public domain to the north, the highly recessive height breaches set well away from the Bonar Street interface edge, will not be visually apparent to the casual observer.
- Opposite the subject site along the northern side of Bonar Street, a maximum height of 8.5m is permitted within the R2 Low Density Residential zone. As detailed above, the location of the non-compliances are setback from the public domain and integrated with the compliant elements. Given the difference in the building height development standards, it is considered that the extent of noncompliance will be less apparent on the basis of a differing typological characters within close proximity to one another.
- The social benefits of providing affordable housing stock within a highly sought after location should be given weight in the consideration of the variation request. The distribution of floor space is predicated on the relationship to surrounding properties and the public domain, and has resulted in a form and scale that breaches for only minor part, the height limit. It would be a loss to the community (and contrary to the public interest) to deny the variation and require the removal of bedroom areas relevant to residential accommodation and suitable located private open spaces of high utility across a well located and well-designed development.
- The proposal is compliant with the maximum (SEPP) FSR that applies to the land. Therefore, the height variation does not seek to provide any additional density or gross floor area (GFA).
- The shadow diagrams that form part of this variation request demonstrate that the area of height variation will not result in an unreasonable increase to the extent of overshadowing impact on either neighbouring properties or public domain.
- The perception of building height, most notably where it breaches the standard, has been formed in a manner that continues to enable the visual identification of a built form that remains appropriate for the site and commensurate with both existing and envisaged development likely to occur on neighbouring undeveloped sites. At high level, the proposed building successfully mitigates environmental impacts such as overshadowing and visual impact.

Council assessment:

The applicant has provided a suitable rationale for a contravention to the building height controls. The proposed contravention is not discernable with an appropriately designed building that is in keeping with neighbouring developments when viewed from the adjoining properties and public domain. With suitable setbacks and landscape plantings, the proposal would provide an appropriate massing and scale that will not have any greater adverse amenity impacts on the site and adjoining properties than a compliant scheme. The applicant's argument that the revised scheme does provide sufficient environmental planning grounds to justify contravention of the FSR control is supported.

An assessment of Section 4.6(3) as outlined above has been undertaken. The justification provided by the applicant is satisfactory in addressing each point relating to planning grounds and unreasonableness.

The site is located within the R4 High Density Residential zone the objective of which were listed in the previous section of this report. The proposal is consistent with the objectives of the R4 zone and the objectives of the building height and the floor space ratio standard. The proposal will also provide residential apartments of different types to the property market and provide a suitable design and layout of building with a suitable external appearance.

Given the above, the consent authority can be satisfied that the provisions of section 4.6(3) have been achieved and that the Section 4.6 is well founded. The strict compliance with the Building Height standard in the circumstances of this case is unreasonable and unnecessary and the proposed contraventions are supported in this instance.

Section 4.6(4)(a)(i)- Consent authority satisfied that this written request has adequately addressed the matters required to be demonstrated by Section 4.6(3)

Officer Comment:

Section 5.1 – Relevant Acquisition Authority

A strip at the front of the site has been identified within the Land Reservation Acquisition Map as land reserved for certain public purposes. The relevant acquisition authority in this instance is Council. The area at the front of the site is identified as “Local Road Widening” and is to be dedicated to Council accordingly. If approval was recommended, conditions of consent would have been imposed relating to the dedication to Council of a 2.7 metre deep frontage along Bonar Street for the purposes of road widening.

Therefore, the provisions of Clause 5.1 have been satisfied.

Section 6.1 – Acid Sulfate Soils

Acid Sulfate Soils (ASS) – Class 5 affect the property. The site is approximately 237m south west from a class 3 acid sulfate soil area. An acid sulfate assessment report was provided. Council's Environmental Scientist reviewed this report and has not raised any concerns.

Earthworks

Section 6.3 – Stormwater and WSUD

The development proposes an on-site detention system (OSD) which is to be located in the south-eastern corner of the site. An easement is also proposed on the neighbouring site to drain stormwater off the site. Stormwater plans were submitted with the application and were prepared by C & S Engineering Services and dated 28 May 2025. The application was reviewed by Council's Development Engineer who has provided the following comments:

The proposed stormwater connection is through a neighbouring site at 5 Bidjigal Road and into Council Park at 49 Bonar Street. This is not supported as the drainage system will need to traverse through Council Park which requires an easement to be created on Council land which will burden Council property. This alone the stormwater disposal for the development is not supported, additionally Council will not grant consent for the drainage works in Council Park. Additionally, it results in a complex system which requires a creation of an easement on

neighbouring site and large drainage system proposed on private land with no owners consent for the works on the private land.

The stormwater system is to be redesigned to extend the existing underground drainage system in Bonar Street to the site frontage for the site to connect into. This will avoid the need for an easement to drain water.

Given that it remains an unresolved issue, the proposal cannot be supported and this is a reason for refusal.

Section 6.7 – Airspace Operations

The proposed development is affected by the 51 AHD Obstacle Limitation Surface (OLS). The proposed building height is at 37.1 RL at the highest point and in this regard, the proposed development will have minimal adverse impact on the OLS. Notwithstanding, Sydney Airport Corporation Limited have consented to the erection of a building to a maximum height of 37.1 RL on the subject site. The proposal is satisfactory with regards to this clause.

Section 6.11 – Essential Services

Services are generally available on site to facilitate to the proposed development. If approval was recommended, appropriate conditions would have been recommended requiring approval or consultation with relevant utility providers with regard to any specific requirements for the provision of services on the site.

S4.15(1)(a)(ii) - Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority

There are no draft environmental planning instruments of direct relevance to the proposal.

S4.15 (1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Bayside Development Control Plan 2022

The following table outlines the relevant Clauses of the DCP applicable to the proposal, while aspects warranting further discussion follows:

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
PART 7 – SPECIFIC PLACES		
7.5 Bonar Street Precinct	Yes – see discussion	No – see discussion
PART 3 – GENERAL DEVELOPMENT PROVISIONS		
3.1.1 Site Analysis and Locality	Yes – see discussion	Yes – see discussion
3.1.5 Views	Yes – see discussion	Yes – see discussion

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
3.2 Design Excellence	Yes – see discussion	Yes – see discussion
3.3 Energy and Environmental Sustainability	Yes – see discussion	Yes – see discussion
3.5 Transport, Parking and Access	Yes – see discussion	No – see discussion
3.6 Social Amenity, Accessibility and Adaptable Design	Yes – see discussion	Yes – see discussion
3.7 Landscaping, Private Open Space and Biodiversity	Yes – see discussion	Yes – see discussion
3.8 Tree Preservation and Vegetation Management	Yes – see discussion	Yes – see discussion
3.9 Stormwater Management and WSUD	Yes – see discussion	Yes – see discussion
3.11 Contamination	Yes – see discussion	Yes – see discussion
3.12 Waste Minimisation and Site Facilities	Yes – see discussion	Yes – see discussion
3.13 Areas subject to Aircraft Noise and Airport airspace	Yes – see discussion	Yes – see discussion
3.14 Noise, Wind, Vibration and Air Quality	Yes – see discussion	Yes – see discussion
3.18 Utilities and Mechanical Plant	Yes – see discussion	Yes – see discussion
PART 4 – SUBDIVISION, CONSOLIDATION AND BOUNDARY ADJUSTMENTS		
4.1 General	Yes – see discussion	Yes – see discussion
PART 5 – RESIDENTIAL AND MIXED-USE DEVELOPMENTS		
5.1.1 Quality of Design, Choice and Diversity	Yes – see discussion	Yes – see discussion
5.2.4.1 Streetscape, Local Character and Quality of Design	Yes – see discussion	Yes – see discussion
5.2.4.2 Built Form Controls	Yes – see discussion	Yes – see discussion
5.2.4.3 Setbacks	Yes – see discussion	Yes – see discussion
5.2.4.4 Landscaping and Private Open Space	Yes – see discussion	Yes – see discussion
5.2.4.5 Solar Access and Overshadowing	Yes – see discussion	Yes – see discussion
5.2.4.6 Parking and Access	Yes – see discussion	Yes – see discussion

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
5.2.4.7 Visual and Acoustic Privacy	Yes – see discussion	Yes – see discussion
5.2.4.8 Materials and Finishes	Yes – see discussion	Yes – see discussion
5.2.4.9 Entries	Yes – see discussion	Yes – see discussion

The following Sections elaborate on Key matters from the above table.

Part 7 is dealt with first, as the DCP states: *“Provisions in the chapter [7] prevail over any similar provisions in other sections of the DCP”*.

Part 7.5 – Bonar Street Precinct

Part 7.5.2 – Controls

The proposed development directly addresses the street. The front setback of the building is approximately 4m which does not comply with the 5m requirement. However, the front alignment is generally consistent with the neighbouring residential flat building at 63-69 Bonar Street.

Notwithstanding the above, there are not adequate landscape treatments to the street edge. Whilst the minimum landscaped area of 5 metres to Bonar Street has been demonstrated, only approximately 1.6 metres is deep soil (i.e. free of the basement levels below). This is not supported by Council.

As discussed earlier in this report, the DRP recommended that the ground floor units addressing Bonar Street are to have direct access to the street from the private yards to maintain connection between public and private domains. If the recommendation was for approval, a condition would have been imposed relating to amended architectural plans to demonstrate this.

Passive surveillance of the street from the buildings is demonstrated, and fencing has been proposed that clearly delineates the private frontages and the public domain.

Fencing has been designed to allow filtered views of the street to maintain passive surveillance.

As per the LEP section earlier in this report, the proposed stormwater design is not supported.

Part 3.1.1 – Site Analysis and Locality

The proposed development has not provided a detailed and comprehensive site analysis, with no detail on the neighbouring developments on the opposite side of Bonar Street, as well as incorrect labelling of the neighbouring residential flat building at 5 Bidjigal Road.

Part 3.1.5 – Views

The proposal is not likely to adversely impact on any existing developments in the vicinity of the site in respect to views. Accordingly, the proposal is acceptable in respect to the requirements of this part.

Part 3.3 – Energy and Environmental Sustainability

The proposed development provides appropriate sun protection during summer for glazed areas facing north, west and east, whilst allowing for penetration of winter sunlight.

The location of windows, doors and internal layout of the building promotes air movement for cooling.

If approval was recommended, a condition would have been imposed ensuring that light reflectivity does not exceed 20%.

As mentioned earlier in this report, insufficient detail has been provided in relation to sustainability measures such as provision of solar panels on the roof, use of integral building materials, stormwater harvesting and reuse, and EV charging for vehicles and bicycles.

Part 3.5 – Transport, Parking and Access

A Traffic and Parking Assessment was submitted with the DA, prepared by Transport and Traffic Planning Associates and dated December 2024.

The proposed development was reviewed by Council's Development Engineer, and the following matters remain unresolved:

- (a) *The development needs to comply with Bayside DCP Section 3.5 Table 5 requiring 1 SRV loading dock for the loading and unloading to be provided on-site compliant with AS2890.2 2018. The proposed loading bay in the basement is not compliant and does not accommodate a SRV vehicle. The driveway grades of 12.5% transition and 20% max gradient do not comply with AS2890.2 2018, The gradients and transitions must comply with table 3.2 and table 3.3 of AS2890.2:2018 which needs to be a maximum grade of 15.4% and a maximum transition of 8.3% over 4m. The development is to be revised to provide a loading dock designed for an SRV vehicle as per AS2890.2 as required by Bayside DCP Section 3.5. The architectural plan to be revised demonstrating complying gradients and the 3.5m headroom clearance (including provision for services) at the driveway entry and the loading dock. Alternately the architectural plans to be revised to provide the on-grade loading lock within the ground floor for SRV.*
- (b) *The development is to provide one car share space as per Bayside DCP Section 3.5. One of the visitor spaces can be utilized as a visitor space and the car wash bay can be shared with a visitor space.*
- (c) *A longitudinal driveway profile prepared by a qualified Civil Engineer for the largest vehicle (SRV) has not been provided demonstrating compliance with AS2890.1& AS2890.2. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with AS2890.2. The profile shall include all relevant levels, grades (%), headroom clearances and lengths. The existing boundary levels shall be clearly shown on the profile, any change to the existing boundary levels requires approval from Bayside Council. The first 6m into the property to be maximum of 5% gradient as per AS2890.1&AS2890.2. The maximum change in gradient over 4.0m is to be 8.3% with the maximum gradient of 15.4% as per AS2890.2. A driveway crest to be provided up to a minimum RL11.38m HAD.*
- (d) *A swept path analysis provided for a B85 passing B99 vehicle at the circulation for*

ramps (at the driveway entry and circulation aisle as per AS2890.1 Section 2.5.2 (c). The waiting/passing bays on the swept paths and updated on the architectural plans.

Given that these above matters remain unresolved, they will be included as reasons for refusal.

As the proposed development has been nominated (in part) as affordable housing under Chapter 2 of the Housing SEPP, the car parking requirement for the site is partly assessed under the non-discretionary development standards as prescribed under Section 19 of the Housing SEPP, as follows:

Use and Rates	Calculation	Spaces required
Affordable housing units 0.4 spaces per 1-bedroom unit 0.5 spaces per 2-bedroom unit 1 space per 3-bedroom (or greater) unit	$1 \times 0.4 = 0.4$ $2 \times 0.5 = 1$ $2 \times 1 = 2$	3.4
Other units 0.5 spaces per 1-bedroom unit 1 space per 2-bedroom unit 1.5 spaces per 3-bedroom (or greater) unit	$7 \times 0.5 = 3.5$ $11 \times 1 = 11$ $7 \times 1.5 = 10.5$	25
	Total	28.4 (29)

Further to the above, the DCP rate for visitors still applies at the rate of 1 space per 5 dwellings ($30 / 5 = 6$ spaces).

Based on the above, a total of 35 car parking spaces are required, with a total of 37 provided. This additional car parking is considered to be additional GFA. This has been discussed previously under Housing SEPP section of this report..

Bicycle spaces are located in basement levels 1 and 2. A total of 33 spaces are provided which exceeds the minimum of 30 spaces (1 per residential unit).

Motorcycle spaces are located in basement level 1. It has provided for 2 spaces, which meets the minimum of 2.

The proposal does not trigger the need for a Green Travel Plan.

Proposed waste collection arrangements are capable of meeting Council's specifications and requirements.

Part 3.6 – Social Amenity, Accessibility and Adaptable Design

The proposal has been designed so that the development is accessible from the public domain and internally. The development provides level access from the footpath to the lift core and to communal open space.

The proposal provides a minimum 20% of all units (i.e. 6) as adaptable units within the development (G.02, G.03 and 1.02), as well as liveable units (G.01, 2.02 and 2.03).

The development provides 3 accessible car spaces (all with basement level 2) and these spaces are located in close proximity to the lifts.

The applicant has provided an Access Assessment Report prepared by Arcadia Constructions and dated 8 October 2024.

It concluded that the proposed development complies with relevant provisions relating to accessibility for people with a disability. In addition, to ensure compliance with relevant BCA and Australian Standards, a qualified Access Consultant will require further engagement to provide a Construction Accessibility Report suitable for the Construction Certificate application.

A Social Impact Assessment was not required for this proposal.

The proposal is satisfactory and complies with the objectives of this Part of the DCP.

Part 3.7 and 3.8 – Landscaping, Private Open Space, Biodiversity and Tree/Vegetation Management

Refer to the Housing SEPP section earlier in this report for deep soil landscaping requirements.

At least one canopy tree is provided in the site.

The proposed development was reviewed by Council's Landscape Architect, and the following matters remain unresolved:

- *Considering the potential removal of 14 trees on site, the development is subject to the 8:1 tree replacement ratio as outlined in C3 3.8.2 of Bayside DCP, 116 trees are to be planted. The amended plans must maximise tree planting.*
- *Adequate soil depths have not been provided for above structure planting, such as the landscape areas behind the driveway and above the OSD structure. Amended plans are required that must satisfy the soil requirements outlined in Table 5 Part 4 of the ADG. Medium sized trees must be planted on the ground floor with a minimum soil depth of 1000mm, and minimum soil volume of 35m³.*
- *Trees within the front setback are to be supplied at a minimum pot size of 200 litres as per 2.2.6 of the Bayside Landscape Technical Specification.*
- *The amended landscape plans are to be revised to detail stormwater structures. The basement outline must also be shown.*

Given that it remains an unresolved issue, it is a reason for refusal.

Part 3.9 – Stormwater Management and WSUD

Refer to the LEP section earlier in this report.

Part 3.11 – Contamination

Refer to the SEPP section earlier in this report.

Part 3.12 – Waste Minimisation and Management

A Waste Management Plan prepared by Place Studio and dated 28 November 2024 was submitted with the application listing methods for minimising and managing construction and ongoing waste on site.

Waste rooms and facilities are located within the basement level 1 area, and a waste room

with recycling bin and waste chute is provided at each level of the building..

Part 3.13 – Areas subject to Aircraft Noise and Aircraft Airspace

Refer to the LEP assessment earlier in this report.

The subject site is mapped 15 to 20 ANEF and therefore an acoustic report on aircraft noise is not required.

Part 3.14 – Noise, Wind, Vibration and Air Quality

The applicant has provided a Pedestrian Wind Environment Statement prepared by Windtech and dated 3 July 2021. This relates to the previous DA. An amended statement was required to be provided in the request for information (RFI) letter as there is an increase in the number of storeys, however, this was not provided. Therefore, Council has insufficient information to complete an assessment and is a reason for recommending refusal of this application.

The applicant has provided an Acoustic Assessment prepared by Acoustic Logic and dated 8 July 2021. This relates to the previous DA. An amended assessment was required to be provided in the request for information (RFI) letter, however, was not provided. Therefore, Council has insufficient information to complete an assessment and is a reason for recommending refusal of this application.

Part 3.18 - Utilities and Mechanical Plant

Appropriate site facilities are provided. Utilities are located in an appropriate location.

Part 4 – Subdivision, Consolidation and Boundary Adjustments

Adjoining the subject site to the west are two lots (51 and 53 Bonar Street) and adjoining 51 Bonar Street is Bonar Street Park at 47-49 Bonar Street.



Figure 12: Bonar Street Reserve (supplied by the applicant)

There is no minimum frontage width for residential flat buildings. However, it is noted that the total frontage width of 51 and 53 Bonar Street is approximately 14.5 metres.

As part of the previous application, the applicant had undertaken formal valuations and provided offers to purchase the properties at 51 and 53 Bonar Street as an attempt to enable a larger consolidated site. Ultimately, the offers were not accepted. This process was repeated for this application and no response was received so it was assumed by the applicant that consistent with the original approval that this development would be carried out without incorporating the adjacent neighbours. This approach is not deemed satisfactory, as this is considered as a new application and therefore the entire process in relation to undertaking formal valuations had to recommence.

The applicant provided schematic drawings in the architectural package that demonstrated that a reasonable built form could be built at 51 and 53 Bonar Street if they were to amalgamate for redevelopment. In addition to this the applicant has integrated a future vehicular access link within the basement to the neighbouring western site. The benefit of this is that the future redevelopment of 51-53 Bonar Street would not require separate access from the street frontage. As a result, a more useable ground floor layout can be achieved as well as increased opportunities for deep soil planting.

Notwithstanding the above, the applicant has not provided a detailed assessment against the planning principle concerning site isolation (*Karavellas v Sutherland Shire Council* [2004] NSWLEC 25).

Given that it remains an unresolved issue, it will be used as a reason for refusal.

Part 5.1.1 – Fences and Retaining Walls

The design of the front fence is seen as appropriate with a mixture of masonry decorative metal slats to allow for transparency, and it does not exceed 1.5 metres in height.

Part 5.1.4 – Quality of Design and Housing Choice and Diversity

Matters relating to internal design and balcony design have been addressed earlier in this report.

As the proposal contains more than 20 units, the DCP contains provisions related to unit mix, as below:

- a. Studio: 5 - 10%;
- b. 1 bedroom: 10 – 30%
- c. 2 bedroom: 40 – 75%; and
- d. 3+ bedroom: 10 - 100%

The proposed development has 8 x 1 bedroom units (26.7%), 13 x 2 bedroom units (43.3%) and 9 x 3 bedroom units (30%), all of which meet each of the above.

Part 5.2.4.1 – Streetscape, Local Characters and Quality of Design

The provisions of Chapter 4 of the Housing SEPP and the associated Apartment Design Guide have been addressed previously.

The proposed substation along the Bonar Street frontage is considered to be in a suitable location.

The proposal is considered consistent with the objectives and controls relating to building design, materials and finishes.

Part 5.2.4.2 – Built Form Controls

Some of the provisions of this Part of the DCP are similar to Chapter 4 of the Housing SEPP and the associated Apartment Design Guide, which have been addressed previously.

The roof form, pitch, materials, and colours are deemed to be compatible with those prevailing in the surrounding area.

Part 5.2.4.3 – Setbacks

Chapter 4 of the Housing SEPP and the associated Apartment Design Guide override this section of the DCP, and these have been addressed previously.

Part 5.2.4.4 – Landscaping and Private Open Space

The provisions of Chapter 4 of the Housing SEPP and the associated Apartment Design Guide have been addressed previously.

The landscaping controls in Part 3.7 of the DCP have been addressed previously.

Part 5.2.4.5 – Solar Access and Overshadowing

Living rooms and private open spaces for at least 70% of units within adjoining properties receive a minimum of 3 hours of solar access between 9am - 3pm in midwinter.

Whilst the provisions of this clause require a minimum of 3 hours of solar access, it is noted that the Apartment Design Guide stipulates 2 hours and as such the ADG requirements supersede the 3 hours specified in this clause.

Given the orientation of the site, height of the development, existing setbacks of residential buildings to the north and south of the site and information derived from the submitted shadow diagrams, it is evident that the midwinter shadows arising as a result of the proposed development do not adversely impact upon residential properties to the south.

The proposal is satisfactory with respect of the objectives and requirements of this clause and adjoining residential properties to the north and south will retain sufficient solar access in midwinter.

Part 5.2.4.6 – Parking, Access and Circulation

This has been addressed previously in accordance with Part 3.5 of the DCP and in response to relevant provisions of Chapter 4 of the Housing SEPP and the associated Apartment Design Guide.

Part 5.2.4.7 – Visual and Acoustic Privacy

An assessment of potential privacy impacts upon neighbours has been undertaken under the Housing SEPP section of this report (building separation).

Part 5.2.4.8 – Materials and Finishes

The proposed development consists of the following building materials:

- Colorbond aluminum ribbed cladding
- Charcoal metal railing
- White precast concrete finish
- Timber look screen
- Light gray concrete cladding
- Charcoal finish
- Dark brass metal finish

Part 5.2.4.9 – Entries

Building entries are easily identifiable, accessible, and positively contribute to the streetscape. The proposal meets the objective of this Part of the DCP and is acceptable when considered against the applicable controls and provisions.

Details regarding street numbering and letterboxes would have been imposed as conditions of consent if approval was recommended.

S4.15(1)(a)(iii) – Provisions any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

There is no planning agreement applicable to the proposal.

S4.15(1)(a)(iv) - Provisions of the Regulation

In terms of provisions of the Regulation:

- The DA submission has included sufficient information to enable environmental assessment of the application (Clause 24);
- Concurrences and other approvals are addressed in the “Proposal” section of this Statement or in response to relevant SEPPs;
- No approval under the Local Government Act 1993 is sought as part of this DA (Clause 31(3)); and
- Demolition works are able to meet the provisions of Australian Standard (“AS”) 2601 and if approval was recommended would have been addressed by conditions of consent.

All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

S4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above. Further impacts are discussed further below:

Natural Hazards

The property is affected by the provision of surface flows however, excavation for the proposed dwelling is not deep enough to cause any adverse impact on the direction of the surface flows.

Construction

There are no specific issues relating to the BCA in the proposed design. Site and safety measures to be implemented in accordance with conditions of consent and Workcover Authority guidelines/requirements.

Social Impacts

The social impacts of the proposal are expected to be positive or neutral, with a development of high-quality design and amenity to meet the needs of future residents, within a form compatible with the character of the area and with impacts which are not significantly adverse, and commensurate with impacts to be expected from development of the site, given the planning controls.

Economic Impacts

In terms of economic impacts, the proposal will cause no anticipated negative economic impacts and will result in positive economic impacts from the materials and labour needed for construction of the proposal.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

S4.15(1)(c) - Suitability of the Site

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal, throughout this report. There remains a number of unresolved matters that ultimately impact on the suitability of the proposed development for the site.

S4.15(1)(d) - Public Submissions

In accordance with Part 9.2 of the Bayside DCP, the DA was advertised for 30 days from 3 February to 3 March 2025. A total of 31 submissions were received (with all of them considered to be unique), with one of these in support. The following matters have already been addressed throughout this report:

- Significant breach to the height should not be supported, with inadequate justification provided
- Does not comply with the building separation requirements in the Apartment Design Guide
- Does not comply with the solar access requirements in the Apartment Design Guide
- Significant decrease in visual and acoustic privacy to neighbouring properties
- Overshadowing
- Inconsistent with the height of surrounding developments
- The density is too great
- Blocking of views

- Inconsistent with the future desired character of the area
- Information provided on site isolation is not correct
- Errors in the calculation of affordable housing units

The other matters raised are addressed further below:

Destruction of mature trees will impact on fauna habitats (in particular flying foxes)

Comment: It is noted that certain species of trees, such as Morton Bay Figs, provide habitat as well as food sources to fauna species, including flying foxes. As stated earlier in this report, Council is not supportive of the large Moreton Bay Fig based on insufficient information. If its removal was to be supported, an assessment would be required as part of an arboricultural report referring to impacts on fauna habitats.

Removal of tree canopy in public domain will result in excess heat during summer

Comment: If approval was recommended, a condition would have been imposed relating to a 3:1 ratio relating to three trees to be planted for every one removed

Not enough 3 and 4 bedroom units

Comment: As discussed earlier in this report, the proposed development will provide for an acceptable number of 3 bedroom units, whilst there is no requirement to provide for 4 bedroom units.

Impacts from construction

Comment: If approval was recommended, conditions would have been imposed relating to the management of construction activities.

Potential risks to students of nearby schools with increase in traffic

Comment: The 3 existing dwellings on the site would generate some 2 vehicular movements in the peak hours when assessed using the RMS Guidelines. Therefore, the proposal's net additional traffic will be equivalent to some four in the AM peak and some three in the PM peak. This traffic generation will be very little more than that of the previously approved development and will not have any adverse or discernible impact on the existing road network as well as the nearby schools.

Impacts on property values

Comment: This is not a consideration under the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979.

Strain on existing infrastructure

Comment: Notwithstanding the unresolved matter relating to stormwater disposal, the proposed development if approved would not give rise to any unacceptable impacts on existing infrastructure.

The proposed HVAC system is not shown on the plans

Comment: If approval was recommended, a condition would have been imposed relating to the marking up of air conditioning and other related structures on the plans prior to the issue of the Construction Certificate.

Road widening corridor should be excluded from FSR calculations

Comment: There is no legal requirement to exclude these areas from FSR, and hence it was calculated correctly.

Traffic and parking assessment contains multiple errors, including no reference to nearby schools

Comment: The Traffic and Parking Assessment was reviewed by Council's Development Engineer and was not considered acceptable.

The setback to the western boundary is insufficient

Comment: It is noted that the proposed development presents an in part zero lot line to the side boundaries for the first four storeys, with the Bonar Street master plan allowing for terrace style housing and hence zero lot line boundaries. However, these are solid walls with no openings such as windows, and hence is deemed acceptable as per the building separation requirements under the Apartment Design Guide.

S4.15(1)(e) - Public interest

There remains a number of unresolved matters . Therefore the site is not suitable for the development and therefore does not satisfy Part 4.15(1)(c) of the Environmental Planning & Assessment Act 1979.

S7.11/S7.12 - Development Contributions

The provisions contained in Council's Section 94 Contributions Plan apply to developments involving the construction of additional residential development that creates further demand to improve or upgrade existing facilities, amenities or services.

A total of \$1,118,621.33 had been calculated, based on the previous financial year (i.e. 2024/25). If approval was recommended, this total would have been revised to reflect the current indexation period (i.e.the current financial year), and would have been imposed as a condition.

Conclusion and Reasons for Decision

The proposed development at 55-61 Bonar Street, Arncliffe has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* including relevant Environmental Planning Instruments and Bayside Development Control Plan 2022.

On balance, in the absence of owner's consent for drainage of water across Council land, and for reasons detailed in the assessment report above, the proposed development in its current form is not appropriate for the site and it is recommended that DA-2025/8 is refused for the reasons outlined in this report.



Clause 4.6 Variation Request

Residential Flat Building – Amending Development Application

55-61 Bonar Street, Arncliffe





1. INTRODUCTION

This Clause 4.6 Exceptions to Development Standards request has been prepared by Bernard Moroz of BMA Urban on behalf of Vortex. It is submitted in support of a Development Application (DA) for the redevelopment of the site at 55-61 Bonar Street, Arncliffe.

Clause 4.3 prescribes a numerical building height limit of 12m and 21m over the subject site. The proposed building height departs from this standard as demonstrated in **Part 2** of this variation request.

It is noted however that this application is made pursuant to *Part 2 Development for affordable housing, Division 1 In- fill affordable housing, Section 16 Affordable housing requirements for additional floor space ratio*, subsection (3) of the Housing SEPP. Specifically, this application seeks to benefit from the 30% floor space ratio (FSR) and building height bonuses under Section 16(3) of the Housing SEPP, where affordable housing is provided to 15% of the total gross floor area (GFA) for a minimum 15-year period. Accordingly, and per the Housing SEPP, the subject site is permitted a maximum building height range between 15.6m and 27.3m.

Clause 4.6 of the *Bayside Local Environmental Plan 2021* (BLEP 2021) enables consent for development to be granted even though it contravenes a development standard. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

As the following request demonstrates, flexibility may be afforded by Clause 4.6 because compliance with the height of buildings development standard is unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the standard. This request also demonstrates that the proposal will be in the public interest, as the proposed development will be consistent with the objectives of the development standard and the zoning of the site.

The following sections of the report provide an assessment of the request to vary the development standards relating to **"height of buildings"** in accordance with Clause 4.6 of the *Bayside Local Environmental Plan 2021* ('BLEP 2021').

Consideration has been given to the following matters within this assessment:

- *Varying development standards: A Guide*, prepared by the Department of Planning and Infrastructure dated August 2011.



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- Relevant planning principles and judgments issued by the Land and Environment Court. The *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 court judgment is the most relevant of recent case law.

Chief Justice Preston of the Land and Environment Court confirmed (in the above judgment):

The consent authority must, primarily, be satisfied the applicant's written request adequately addresses the 'unreasonable or unnecessary' and 'sufficient environmental planning grounds' tests:

"that the applicant's written request ... has adequately addressed the matters required to be demonstrated by cl 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case ... and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard ..." [15]

On the 'Five Part Test' established under *Wehbe v Pittwater Council* [2007] NSWLEC 827:

"The five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way..." [22]

That, in establishing 'sufficient environmental planning grounds', the focus must be on the contravention and not the development as a whole:

"The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole" [26]

That clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development:

"Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard will have a better environmental planning outcome than a development that complies with the development standard."



Clause 4.6 Variation Request
55-61 Bonar Street, Arncliffe

[88]

This clause 4.6 variation has specifically responded to the matters outlined above and demonstrates that the request meets the relevant tests with regard to recent case law.

In accordance with the BLEP 2021 requirements, this Clause 4.6 variation request:

- identifies the development standard to be varied (**Part 2**);
- identifies the variation sought (**Part 2**);
- Summarises relevant case law (**Part 3**);
- establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (**Part 4**);
- demonstrates there are sufficient environmental planning grounds to justify the contravention (**Part 4**);
- Provides a conclusion summarising the preceding parts (**Part 5**).

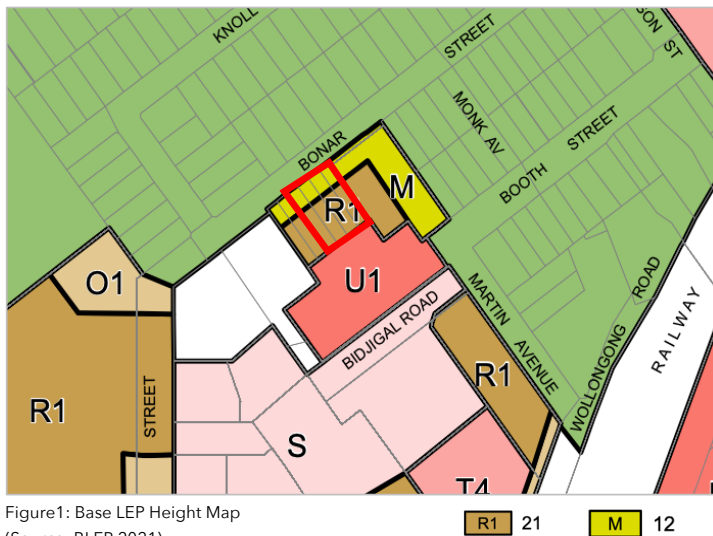
This Clause 4.6 Exception to a Development Standard should be read in conjunction with the architectural plan detail prepared by Place Studio



Clause 4.6 Variation Request
55-61 Bonar Street, Arncliffe

2. VARIAION OF HEIGHT OF BUILDING'S STANDARD

The relevant maps [LEP Digital Maps] indicates that the maximum building height permitted at the subject site is 12m fronting Bonar Street and 21m centrally and to the rear of the site. As identified above, when applying the 30% building height bonus afforded by Section 16(3) of the Housing SEPP, a maximum height of 15.6m is permitted to Bonar Street, and 27.3m centrally and to the rear of the site.



Where the 15.6m SEPP height limit applies, the architectural plans indicate that the proposed development has a maximum height breach ranging from 650mm to 8.1m. This is measured from natural ground line in accordance with the definition of height under the BLEP.

The proposal results in variations from the standard, as follows:

- **Apartment parapets of 4.01 and 4.02 and balcony spaces of 5.01 and 5.02:** Apartment parapet of unit 4.01 and balcony space of 5.01 exceeds the height by a range of 1.1m and 1.45m. And apartment parapet of unit 4.02 and balcony space of 5.02 exceeds the height by a range of 650mm and 950mm. Maximum respective height are 17.05m and 16.55m heights representing maximum variations of 9.2% and 16% over the maximum allowable height being the base LEP height inclusive of the SEPP 30% bonus.
- **Balcony spaces of apartments 6.01 and 6.02:** Maximum respective height of 20.6m and 19.75m, representing respective variations of 5m or 32% and 4.15m or 26.6% over the maximum allowable height being the base LEP height inclusive of the SEPP 30% bonus.



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55-61 Bonar Street, Arncliffe

- **Balcony spaces of apartments 7.01 and 7.02:** Maximum respective height of 23.7m and 22.8m, representing respective variations of 8.1m or 51.9% and 7.2m or 46.1% over the maximum allowable height being the base LEP height inclusive of the SEPP 30% bonus.

It is noted that the majority of the building is sited within the allowable transitional height envelope.

The proposed variations to building height across the development are reflected in **Figures 2** (Height Overlay) and **3** (Section) below.

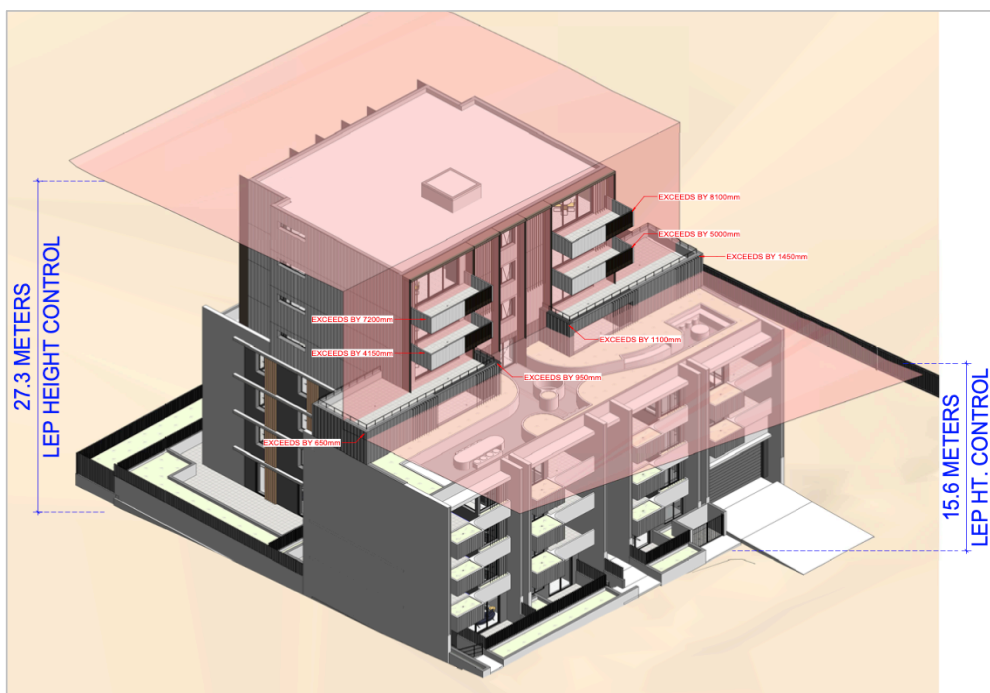


Figure 2: Height Breach Overlay
Source: Place Studio



Clause 4.6 Variation Request
55-61 Bonar Street, Arncliffe

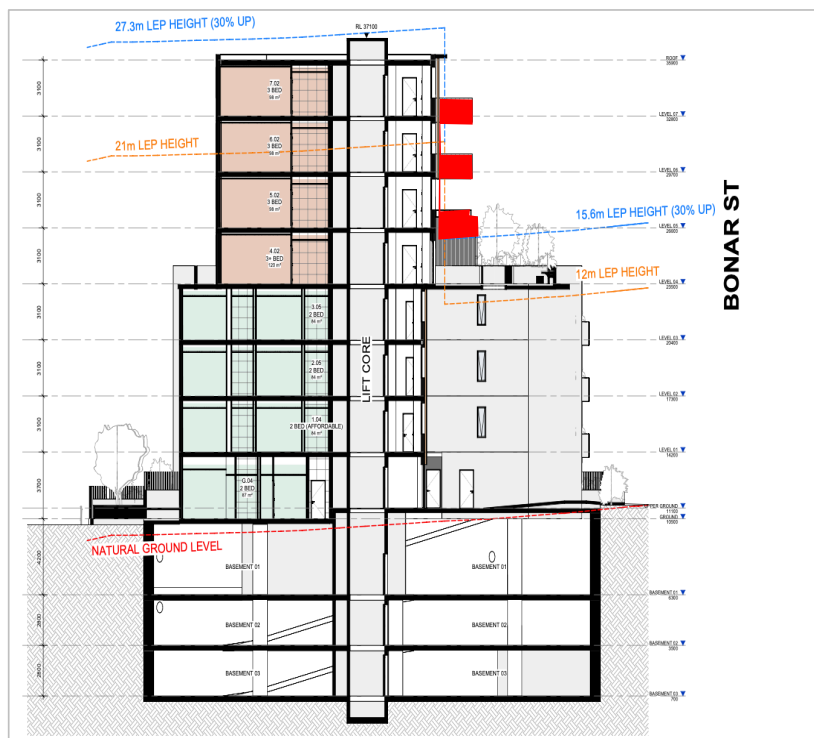


Figure 3: Height Breach Section (non-compliance in red)

Source: Place Studio



3. NSW LAND AND ENVIRONMENT COURT: CASE LAW

Clause 4.6 of BLEP includes provisions that allow for exceptions to development standards in certain circumstances. The objectives of clause 4.6 of BLEP 2021 are:

- *(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- *(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6 provides flexibility in the application of planning provisions by allowing the consent authority to approve a DA that does not comply with certain development standards, where it can be shown that flexibility in the particular circumstances of the case would achieve better outcomes for and from the development.

In determining whether to grant consent for development that contravenes a development standard, clause 4.6(3) requires that the consent authority to consider a written request from the applicant that seeks to justify the contravention of the development by demonstrating:

- *(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- *(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Clause 4.6(4) requires the consent authority keep record of its assessment under subclause (3).

This clause 4.6 request demonstrates that compliance with the height of building prescribed for the site in Clause 4.3 of BLEP is unreasonable, and there are sufficient environmental planning grounds to justify the requested variation and that the approval of the variation is consistent with the development standard.

In accordance with clause 4.6(3), the applicant requests that the height of building standard be varied.



4. ASSESSMENT OF THE CLAUSE 4.6 VARIATION

The following sections of the report provide a comprehensive assessment of the request to vary the development standards relating to building height in accordance with clause 4.3 of BLEP 2021. Detailed consideration has been given to the following matters within this assessment:

- Varying development standards: A Guide, prepared by the Department of Planning and Infrastructure dated August 2011.
- Relevant planning principles and judgements issued by the Land and Environment Court. The following sections of the report provides detailed responses to the key questions required to be addressed within the above documents and clause 4.6 of the BLEP 2021.

4.1 CONSIDERATION

4.1.1 Clause 4.6 (3)(a) - Is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?

The common way in which an Applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary is detailed in the 'five-part test' outlined in the *Wehbe v Pittwater* [2007] NSWLEC 827. These tests and case law are outlined in **Section 3** of this request.

Preston CJ identifies 5 options in *Wehbe v Pittwater* [2007] NSW LEC 827 which can be used to analyse whether the application of the standard to a particular building is unreasonable or unnecessary in the circumstances of the case.

Preston CJ at [16] states as follows:

"As to the first matter required by cl 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in Wehbe v Pittwater Council at [42]-[51]. Although that was said in the context of an objection under State Environmental Planning Policy No 1 - Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary."

In *Wehbe*, Preston CJ identified five ways in which it could be shown that application of a development standard was unreasonable or unnecessary. However, His Honour said that these five ways are not



exhaustive; they are merely the most commonly invoked ways. Further, an applicant does not need to establish all of the ways.

The five methods outlined in Wehbe are:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard **(First Method)**.
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary **(Second Method)**.
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable **(Third Method)**.
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable **(Fourth Method)**.
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone **(Fifth Method)**.

Of particular assistance in this matter, in establishing that compliance with a development standard is unreasonable or unnecessary is the **First Method**. **Methods 2 through to and including 5** are not relied upon in the preparation of this variation request.

The objectives of the development standard are achieved notwithstanding the noncompliance (First Method).

The objectives of height of building standard are as follows:

(a) to ensure that building height is consistent with the desired future character of an area,

It is noted that objective (a) refers to being "compatible" with the height, bulk and scale of the desired future character of the locality. It is considered that "compatible" does not promote "sameness" in built form but rather requires that development fits comfortably with its urban context. Of relevance to this assessment are the comments of *Roseth SC in Project Venture Developments Pty Ltd v Pittwater Council* [2005] NSWLEC 191:

"22 There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony.



Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve."

Council does not have any specific desired future character objectives under BLEP but reiterates that the desired future character is set by the applicable planning controls. However, the use of a DCP to determine desired future character of an LEP was overturned by Preston CJ in *Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115*.

Therefore, the desired future character of the neighbourhood must be set by the existing, recently approved and proposed buildings within the neighbourhood. The subject site is zoned R4 High Density Residential and opposes an R2 zone located across the site along Bonar Street. The locality is anticipated to undergo further change and an increase in density, consistent with the planning controls, its accessible location and proximity to public transport. I

In terms of surrounding development, residential flat buildings of varying scales are slowly evolving across the immediate and broader context. Therefore, the approved development and neighbouring properties contribute to the desired height, bulk, scale and ultimately, character of the locality. The proposed apartment development is a permissible form for the zone and is consistent with the established and desired future character of the locality as set out above.

Whilst the approved and surrounding developments contribute to desired future character, it is imperative to note that the locality is anticipated to continually undergo further change. That is, the subject site is located within 650m walking distance from Arncliffe station, is capable of accommodating an increase in density as desired for transit orientated developments and as afforded by the Housing SEPP. This application, whilst increasing density and resulting in a height encroachment, is compatible with the existing and desired future character of the locality.

When considering the proposed variations, they constitute a minor component of the building and noting their recessive nature and form whereby the breaching elements remain suitably integrated into the overall form of the building, their retention will in no way hinder the proposal's ability in remaining contextually compatible with the character of the area. The burden on insisting on strict compliance would result in the removal of the outer wing bedroom areas of apartments 4.01 and 4.01 and a number of required balcony spaces which would be an unreasonable and unnecessary outcome given the bulk, scale and character of the proposal remains compatible with the locality despite the height breaches.

The proposal is therefore consistent with objective (a), despite the height breach.



(b) to minimise visual impact of new development, disruption of views, loss of privacy and loss of solar access to existing development,

The extent of non-compliance has been predominately centralised within the built form peripheries and in doing so, any visual perception of height breach has been minimised. Across the most sensitive interface being the Bonar Street frontage, the proposal seeks the provision of a four (4) storey podium that for most part, is sited well below the prescribed 15.6m applicable height. From a perceptible volume perspective, this outcome will serve to mitigate any visual impact of the development across the Bonar Street to a far greater degree than the insistence on numerical compliance to the heavily recessed areas of height breach. The section in **Figure 3** reproduced as part of this variation request best exemplifies this.

In terms of privacy, the height breach does not result in any adverse additional privacy impacts beyond a compliant building envelope. The non-compliant building height is concentrated towards the central component of the building set well into the site and in doing so, will bear no adverse consequence to the privacy afforded to the neighbouring properties across Bonar Street. In terms of the neighbouring properties to the east and west, privacy screening is proposed along the eastern and western balcony peripheries and in doing so, any ability to overlook the neighbouring properties from the non-compliant aspects of the building have been suitably mitigated.

In terms of shadowing, Place studio have prepared shadowing comparison diagrams that demonstrate that any additional shadow cast by the breaching elements will not cause an adverse level of additional impact. In doing so, levels of solar access to neighbouring properties and the development itself, do not present as unduly compromised as a result of the height breaches.

In terms of view loss, the proposed variation will not result in any significant loss of views or outlook compared to a building with a compliant height. The maximum height non-compliance is limited and any potential view loss would be caused by the approved and compliant building envelope. As such, the extent of view loss caused by the non-compliant element would be insignificant.

As such, the proposed development, including the extent of non-compliance specifically, will not result in any adverse amenity impacts to future residents on the subject site, neighbouring properties or the public domain

(c) to nominate heights that will provide an appropriate transition in built form and land use intensity.

As detailed, the proposed building height has been purposefully designed to ensure compatibility with the surrounding locality and respond to the dual building height development standard which applies to the



Clause 4.6 Variation Request
55-61 Bonar Street, Arncliffe

subject site. The development is located opposite the R2 Low Density Residential zone and the proposal has therefore been designed to respond to the transition in zones and building form as anticipated by the 15.6m standard (including SEPP bonus) fronting Bonar Street. As described in address of the preceding objective, where the development shares a direct visual interface with the opposing lower density development, a four (4) storey podium is provided that is sited well below the prescribed height maximum across this interface. In doing so, the well recessed height breach elements will in no way hinder the continual achievement of this objective.

Accordingly, the built form provides a residential flat building form which is entirely consistent with the number of storeys envisaged by the LEP and bonus afforded by the SEPP. When considering the extent of non-compliance fronting the public domain, the proposal is predominately compliant with the building height development standard and therefore the perceivable bulk and scale will maintain the transition in built form and intensity as is anticipated.

In accordance with *Division 1 In-fill affordable housing* of Housing SEPP, 15A Objective of division is reproduced and considered below.

The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

The proposed development, including the non-compliant building height, will facilitate the delivery of new in-fill affordable housing which will meet the needs of very low, low and moderate income households. To request strict compliance and require deletion of two(2) apartments bedrooms and a number of balcony spaces, will reduce the overall amenity of the development without benefit. As such, the proposal will satisfy the objective of *Division 1 In-fill affordable housing* despite non-compliance.

4.1.2 Clause 4.6 (3)(b) - Are there Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard?

Clause 4.6(3)(b) of the BLEP 221, requires the consent authority to be satisfied that the applicant's written request has adequately addressed clause 4.6(3)(b), by demonstrating:

"That there are sufficient environmental planning grounds to justify contravening the development standard".

The environmental planning grounds relied on in the written request under Clause 4.6 must be sufficient to justify contravening the development standard. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds



Clause 4.6 Variation Request
55-61 Bonar Street, Arncliffe

advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as summarised in *(Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118)*.

The proposed development is supportable on environmental planning grounds for the following reasons:

- The maximum extent of non-compliance is a result of the interface between the two building height development standards and topography of the subject site. The uppermost building form complies with the prescribed height (including bonus) applicable to the land. However, the non-compliant elements across the preceding lower levels, extend in part beyond the permissible building height envelope as a result of the interface between the two standards. Of relevance, the built form of the four (4) storey podium fronting Bonar street is well compliant with the 15.6m building height noting that the height breach is only evident from Levels 5 and 8 which are set well into the curtilage of the built form envelope and will therefore, having no adverse visual bearing on streetscape volume.
- In accordance with the above, the northern elevation of the building fronting Bonar Street is the part of the building which will have the most bearing on character of development in the locality. When viewed from adjoining properties and the public domain to the north, the highly recessive height breaches set well away from the Bonar Street interface edge, will not be visually apparent to the casual observer.
- Opposite the subject site along the northern side of Bonar Street, a maximum height of 8.5m is permitted within the Low Density Residential zone. As detailed above, the location of the non-compliances are setback from the public domain and integrated with the compliant elements. Given the difference in the building height development standards, it is considered that the extent of non-compliance will be less apparent on the basis of a differing typological characters within close proximity to one another.
- The social benefits of providing affordable housing stock within a highly sought after location should be given weight in the consideration of the variation request. The distribution of floor space is predicated on the relationship to surrounding properties and the public domain, and has resulted in a form and scale that breaches for only minor part, the height limit. It would be a loss to the community (and contrary to the public interest) to deny the variation and require the removal of bedroom areas relevant to residential accommodation and suitable located private open spaces of high utility across a well located and well-designed development.
- The proposal is compliant with the maximum (SEPP) FSR that applies to the land. Therefore, the height variation does not seek to provide any additional density or gross floor area (GFA).



- The shadow diagrams that form part of this variation request demonstrate that the area of height variation will not result in an unreasonable increase to the extent of overshadowing impact on either neighbouring properties or public domain.
- The perception of building height, most notably where it breaches the standard, has been formed in a manner that continues to enable the visual identification of a built form that remains appropriate for the site and commensurate with both existing and envisaged development likely to occur on neighbouring undeveloped sites. At high level, the proposed building successfully mitigates environmental impacts such as overshadowing and visual impact.
- The proposed development meets the objectives of the development standard, objectives of *Division 1 In-fill affordable housing* of the Housing SEPP and objectives of the R3 Medium Density Residential zone;
 - The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:
 - The proposal promotes the orderly and economic use and development of land through the redevelopment of an underutilised site (1.3(c));
 - To promote the delivery and maintenance of affordable housing (1.3(d));
 - The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3(g)).
 - The variation to the height of buildings development standard will give better effect to the aims of Chapter 4 Design of residential apartment development, of the Housing SEPP. In particular:
 - The proposed variation will provide more sustainable housing in social and environmental terms and better achieve urban planning policies (clause 2(3)(a)(i));
 - To achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define (clause 2(3)(b));
 - To contribute to the provision of a variety of dwelling types to meet population growth (clause 2(3)(f));
 - Approval of the proposed variation will support a variety of housing types by providing a well-located and compact development that will be a better choice for families (clause 2(3)(g)).



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The Objects of the Act under S1.3 are also relevant to whether grounds exist to warrant a variation. While this does not necessarily require that the proposed development should be consistent with the objects of the Act, nevertheless, in **the table below** we consider whether the proposed development is consistent with each object.

The objects of this Act and how this proposal responds to the object are as follows:

Object	Comment
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	This object is not relevant to this application.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal will facilitate an ecologically sustainable development given that no negative impact on environmental and social considerations will arise. This in turn will serve to offer the ongoing sustainment of the economic health of the area.
(c) to promote the orderly and economic use and development of land,	The proposed development will promote the orderly and economic use of the land by way of providing a land use intensity consistent with that envisaged by Council.
(d) to promote the delivery and maintenance of affordable housing,	This object is not relevant to this development.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	Given the nature and character of the urban setting the proposed development is located within, no impact on threatened species or ecological communities is likely to result.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	This object is not relevant to this development
(g) to promote good design and amenity of the built environment,	The proposed development promotes good design in that it serves to provide a built form and massing arrangement that serves as a positive influence on the built form environment both existing and likely



Clause 4.6 Variation Request
55-61 Bonar Street, Arncliffe

	to emerge upon the redevelopment of building stock.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	Nothing will preclude the proposed development from having the ability to comply with all relevant BCA codes and standards.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	This object is not relevant to this development
(j) to provide increased opportunity for community participation in environmental planning and assessment.	This application will be neighbour notified in accordance with Council's DCP provisions.

Based on the above, the consent authority can be satisfied that there the proposed development remains consistent with the Objects of the Act despite the height non-compliance.

4.1.3. Clause 4.6(4) - The consent authority must keep a record of its assessment carried out under subclause (3).

Bayside Council has a current Clause 4.6 register. Any record of this development and its address of subclause (3) will be required to be uploaded on this register.



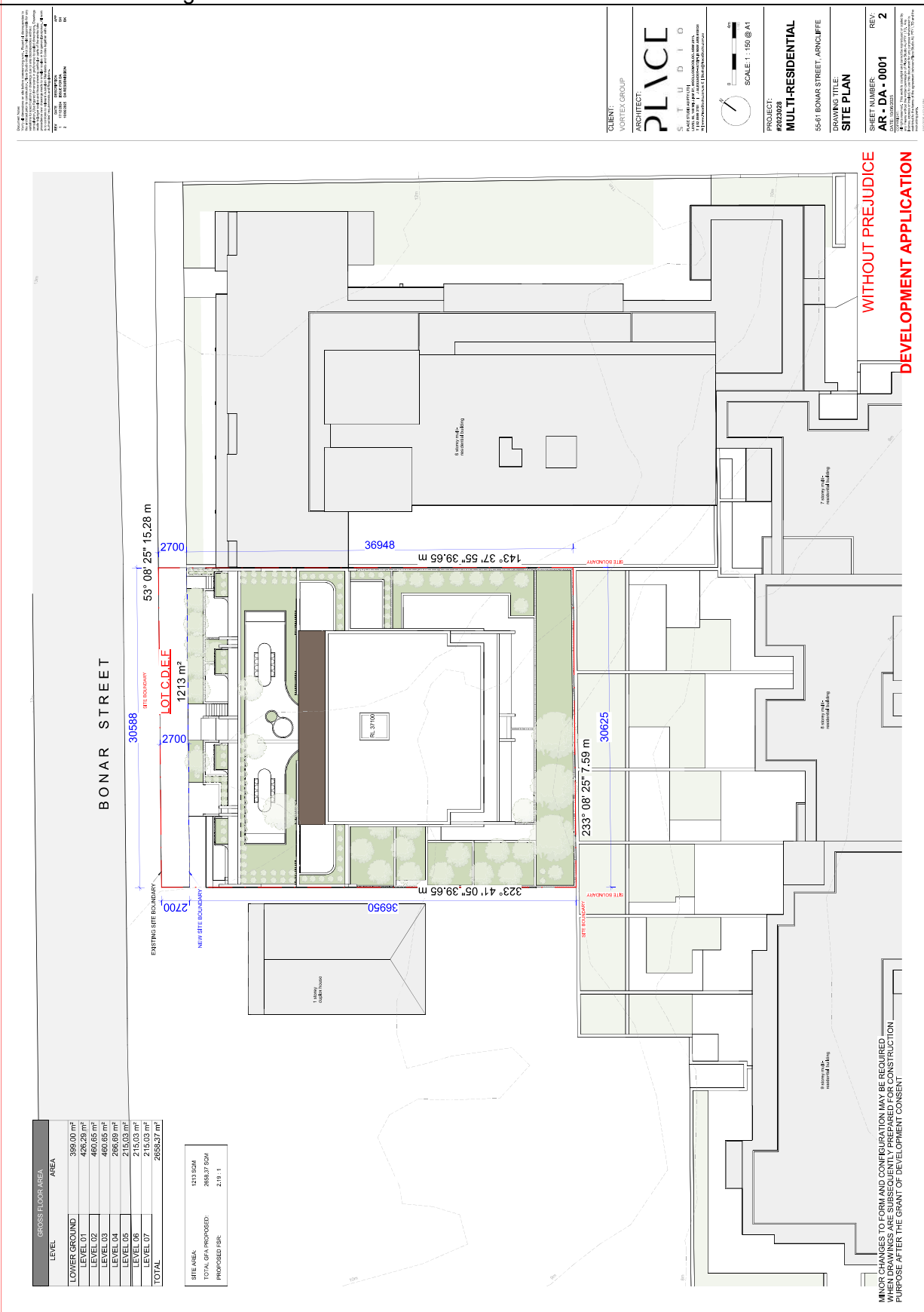
Clause 4.6 Variation Request
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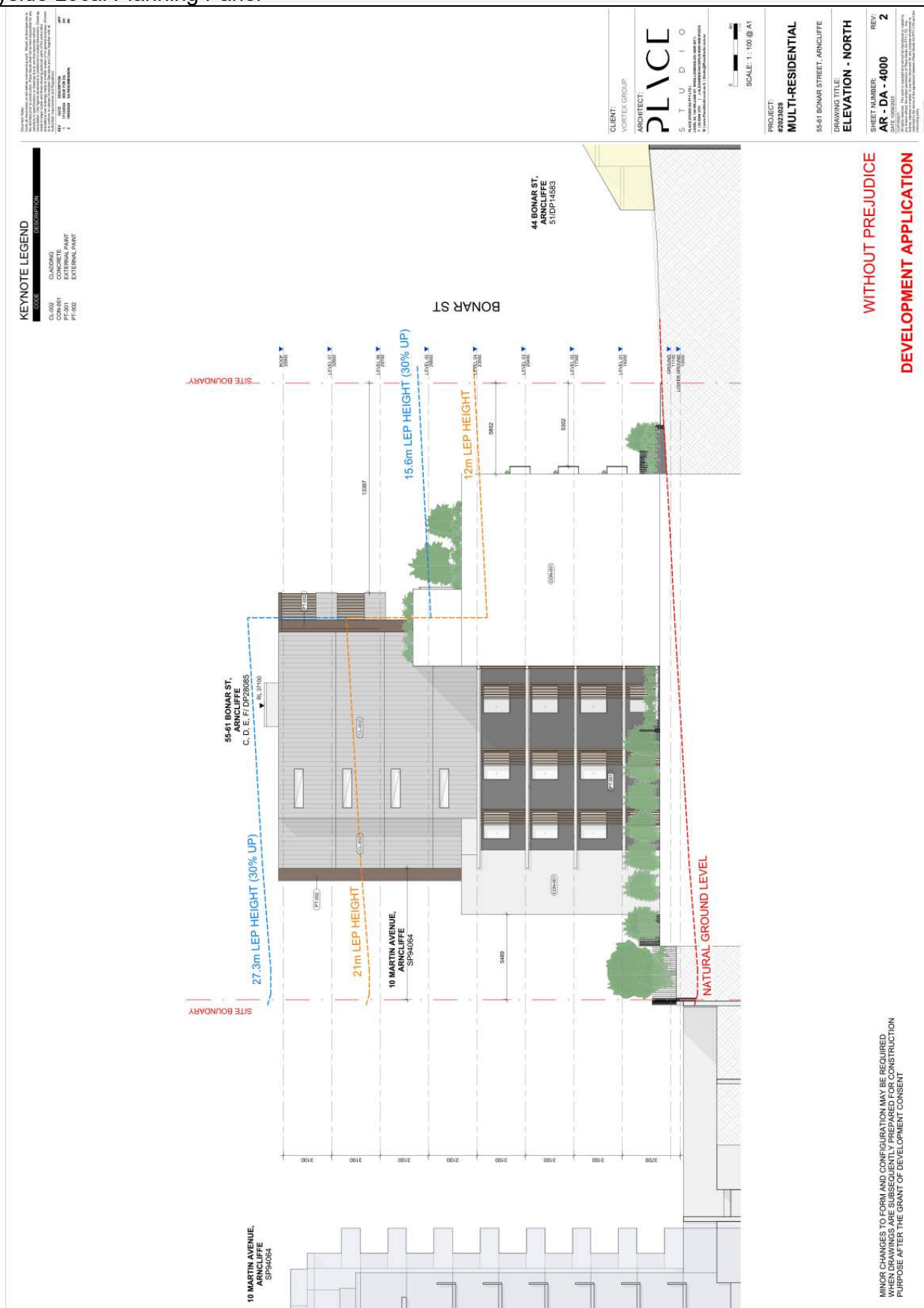
5. CONCLUSION

This application seeks to benefit from the building height and floor space bonuses afforded by *Part 2, Division 1 In-fill affordable housing, Section 16(3)* of the Housing SEPP. This written request has been prepared in relation to the proposed variation to the maximum building height, inclusive of a 30% bonus afforded by Section 16(3) of the Housing SEPP, development standard contained within Clause 4.3 of BLEP.

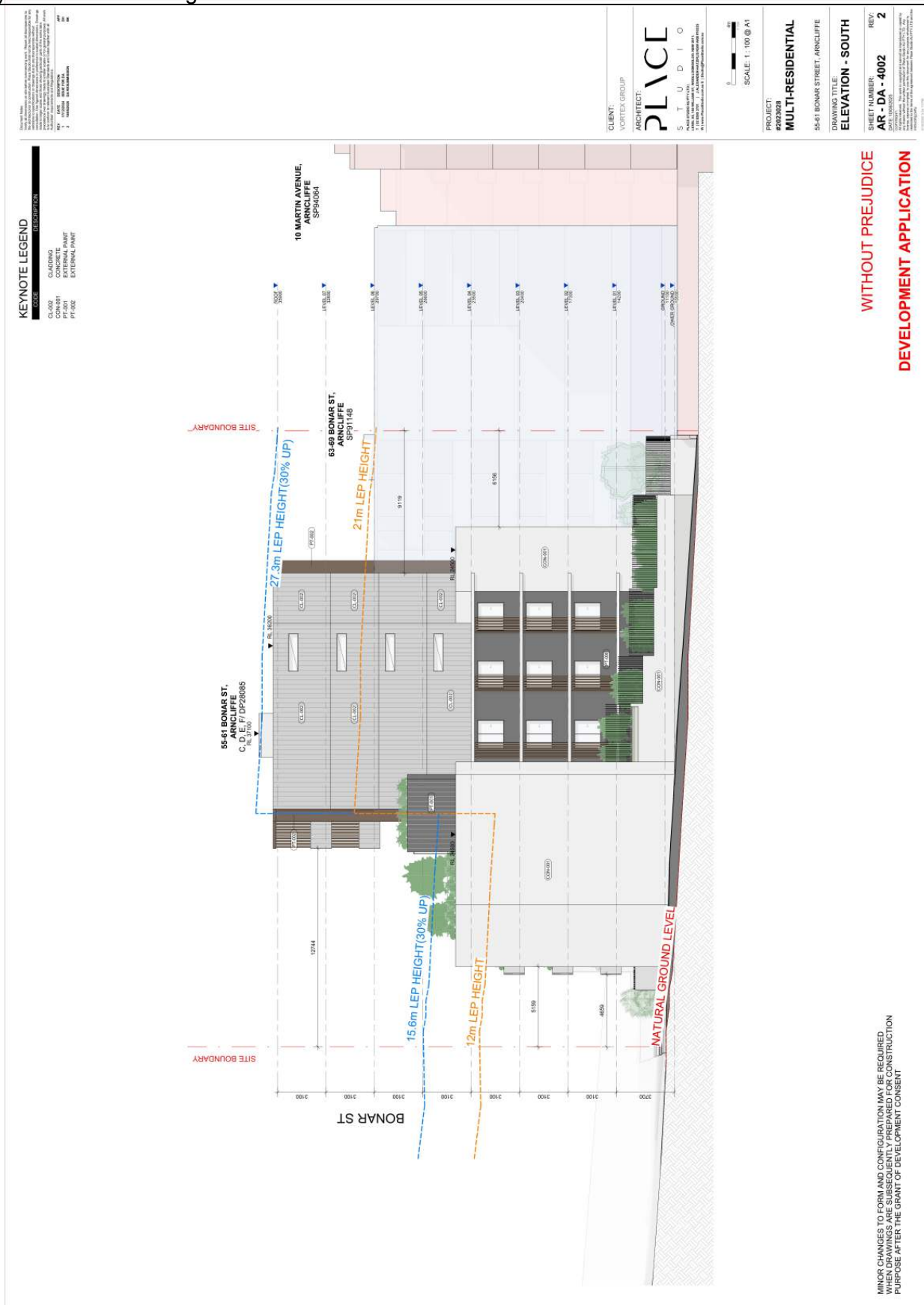
Having regard to all of the above, it is our opinion that compliance with the maximum height development standard, as increased by the Housing SEPP in-fill affordable housing bonus, is unreasonable and unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives. The proposal has also demonstrated sufficient environmental planning grounds to support the breach.

Therefore, insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of Clause 4.6(3) are satisfied and the variation supported.



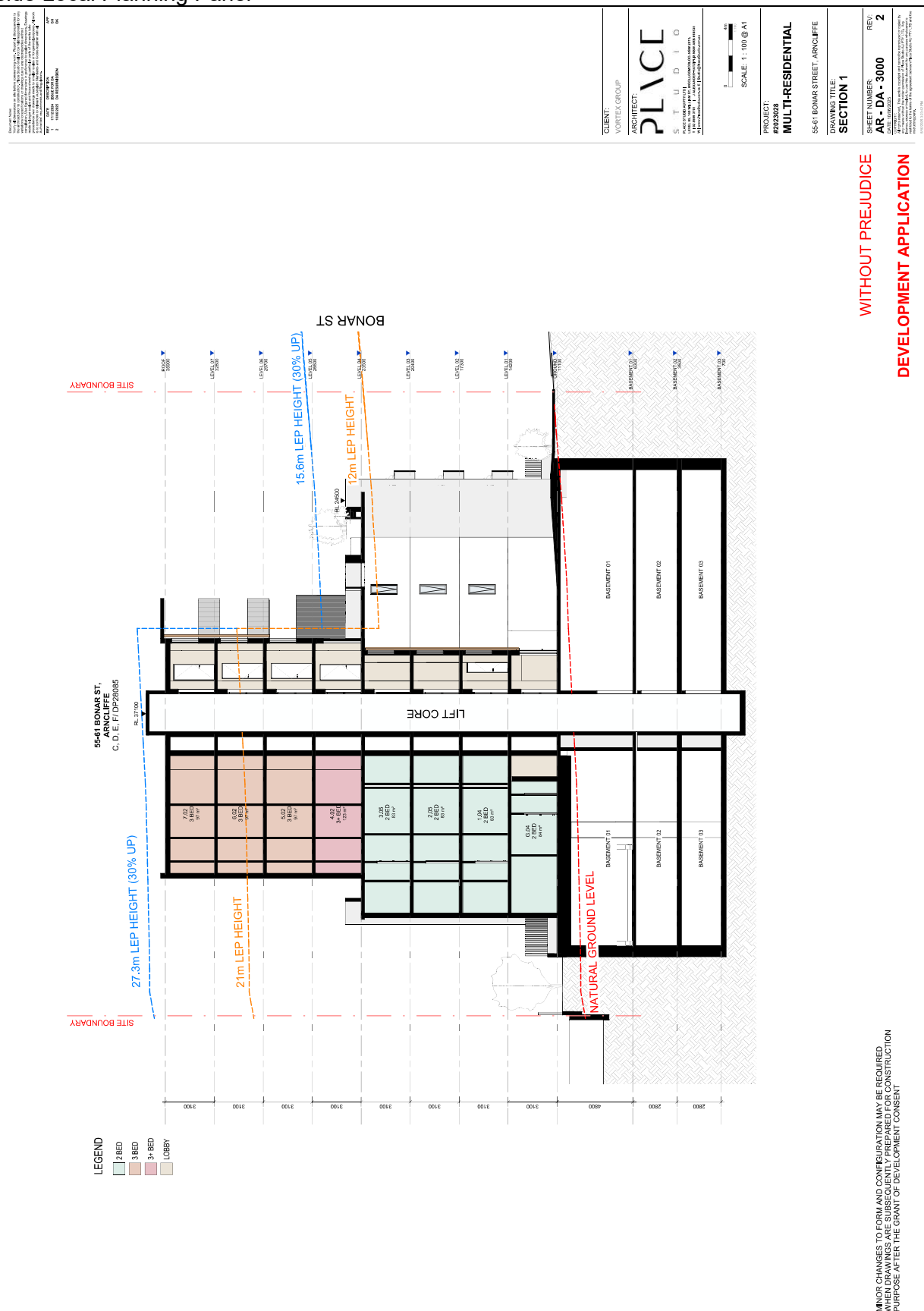


















Bayside Local Planning Panel

23/09/2025

Item No	6.2
Application No	DA-2024/309
Property	1-5 Charles Street Arncliffe NSW 2205
Application Type	Development Application
Proposal	Alterations and additions to approved residential flat building (DA-2024/309) including one additional basement level, six (6) additional apartments and two (2) additional levels resulting in an eleven (11) storey building comprising 44 build-to-rent apartments and 12 affordable rental apartments associated landscaping with a common terrace on Level 10 and four (4) basement levels
Owner	Charles Street Holding NSW Pty Ltd
Applicant	Charles Street Holding NSW Pty Ltd
Ward	Ward 2
Lodgement Date	5/09/2025
No. of Submissions	Eleven (11)
Cost of Development	\$3,367,380.00
Reason Criteria	Contentious development
Report by	Peter Barber, Director City Futures

Reason for the Report

This application has been referred to the Bayside Local Planning Panel (BLPP) for the following reason:

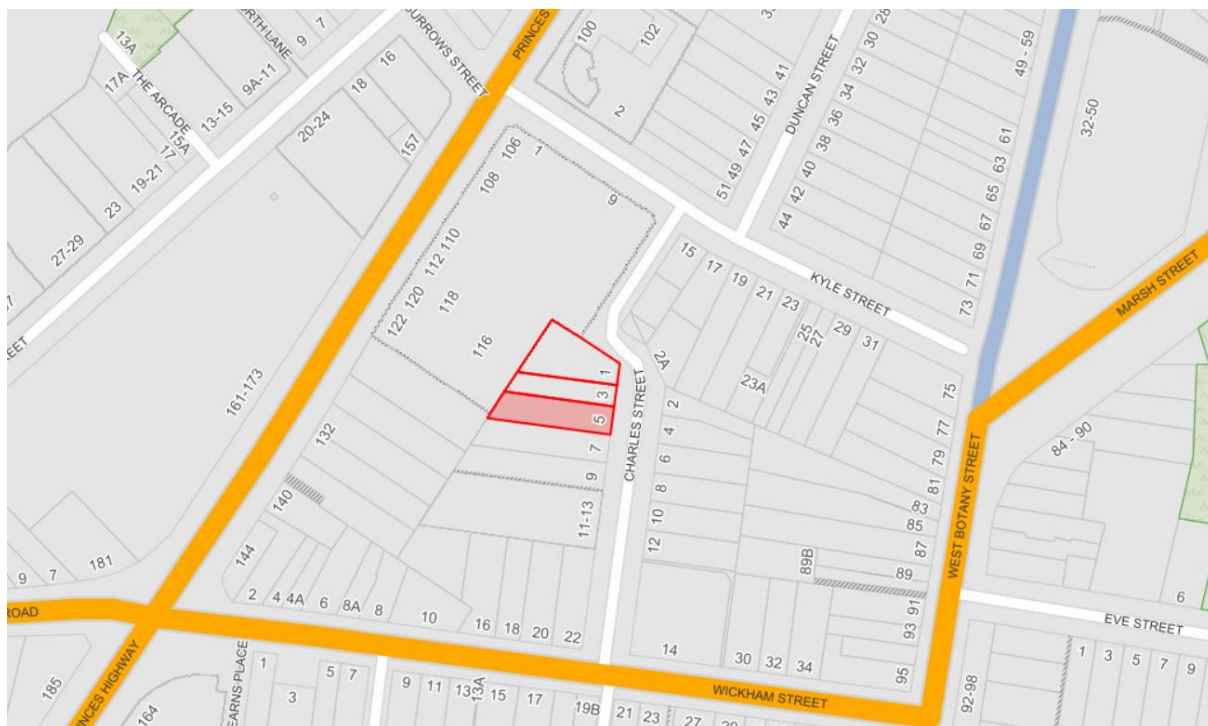
'In accordance with Section 2 and Schedule 1 from the Local Planning Panels Direction issued by the Minister for Planning and Public Spaces (dated 6 March 2024), development applications for which 10 or more unique submissions by way of objection are received by Council must be determined by local planning panels. The proposed development has attracted eleven (11) unique submissions by way of objection which have been addressed in the planning assessment report.'

Officer Recommendation

- 1 That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the Environmental Planning and Assessment Act 1979, determine Development Application DA-2024/309 for alterations and additions to an approved residential flat building including one additional basement level, six (6) additional apartments and two (2) additional levels resulting in an eleven (11) storey building comprising 44 build-to-rent apartments and 12 affordable rental apartments associated landscaping with a common terrace on Level 10 and four (4) basement levels at 1-5 Charles Street, Arncliffe NSW 2205 by **GRANTING CONSENT** subject to the recommended conditions of consent attached to this report.

- 2 That the submitters are to be notified of the Panel's decision.

Location Plan



Attachments

- 1 [↓](#) Planning Assessment Report
- 2 [↓](#) Draft conditions of consent
- 3 [↓](#) Statement of Environmental Effects
- 4 [↓](#) Section 67 Notice of Modification
- 5 [↓](#) Architectural Plans Elevations and Photomontages
- 6 [↓](#) Landscape Plan

BAYSIDE COUNCIL

Planning Assessment Report



Application Details

Application Number:	DA-2024/309
Date of Receipt:	13 November 2024
Property:	1-5 Charles Street, Arncliffe NSW 2205 Lot B in DP 954947
Owner:	Charles Street Holdings NSW Pty Ltd
Applicant:	Charles Street Holdings NSW Pty Ltd
Architect:	Marchese Partners Architects
Town Planner:	GYDE
Proposal:	Integrated Development - DA-2024/309 for alterations and additions to approved residential flat building including one additional basement level, six (6) additional apartments and two (2) additional levels resulting in an eleven (11) storey building comprising 44 build-to-rent apartments and 12 affordable rental apartments associated landscaping with a common terrace on Level 10 and four (4) basement levels
Recommendation:	Approval
No. of submissions:	Eleven (11) unique submissions
Author:	Michael Maloof – Senior Development Assessment Planner
Date of Report:	4 September 2025

Key Issues

The key issues identified in the assessment of the development application relate to:

- Affordable Housing - 12 of the 56 apartments;
- Alterations and additions;
- Building Separation; and
- Modification to DA-2023/50 to add six (6) additional units and provide twelve (12) affordable housing units.

The development application ("DA") has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* ("the Act") and is recommended for approval, subject to conditions.

The officers involved in writing and authorising this report declare, to the best of their knowledge, that they have no interest, pecuniary or otherwise, in this application or persons associated with it and have provided an impartial assessment.

Recommendation

1. That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Development Application DA-2024/309 for alterations and additions to approved residential flat building including one additional basement level, six (6) additional apartments and two (2) additional levels resulting in an eleven (11) storey building comprising 44 build-to-rent apartments and 12 affordable rental apartments associated landscaping with a common terrace on Level 10 and four (4) basement levels at 1-5 Charles Street, ARNCLIFFE NSW 2205 by GRANTING CONSENT subject to the recommended conditions of consent attached to this report.
2. That the submitters be notified of the Panel's decision.

Background

History

The following applications have previously been considered by Council in relation to the subject site:

- DA-2023/50 – Integrated Development - Demolition of all existing structures, tree removal, site amalgamation, and construction of a nine (9) storey residential flat building comprising fifty (50) build-to-rent residential apartments, three levels of basement parking and associated landscaping with a common terrace on Level 8 - Approved by the Bayside Local Planning Panel on 13 February 2024.
- PDA-2022/36 - Demolition of all existing structures and construction of a nine (9) storey residential flat building comprising of 46 apartments, vehicular access along Charles Street, 3 basement carpark levels and associated landscaping at ground and rooftop levels – Letter issued on 10 October 2022.

The current application (DA-2024/309) was referred to the Design Review Panel (DRP) on 6 February 2025 who raised no objection to the scheme subject to minor changes. The DRP confirmed that subject to the minor changes, the scheme satisfies the Design Excellence requirements under clause 6.10 of the Bayside LEP 2021, complies with the design principles and is acceptable in this regard.

The history of the subject application is summarised as follows:

- 13 November 2024 - Lodgement
- 18 November 2024 to 18 December 2024 - Notification period dates
- 21 January 2025 – Referral received from Waste
- 6 February 2025 – Referred to the Design Review Panel

- 18 February 2025 - Email of DRP minutes sent to the applicant
- 26 February 2025 – Internal referral received within Council
- 27 March 2025 – Updated landscape plans received from the applicant
- 5 May 2025 – Updated architectural plans received from the applicant
- 5 May 2025 – Referral response received from Water NSW
- 5 May 2025 – Email / RFI letter sent to the applicant regarding Regs details
- 16 May 2025 - Additional information submitted regarding conditions and details of the Registered Community Housing Provider
- 28 August 2025 – Site Inspection
- 28 August 2025 – Email from applicant with details of community housing provider
- 1 September 2025 – Email to applicant requesting final Regulations information
- 2 September 2025 – Clause 67 Notice submitted by the applicant

Proposal

The proposed development is Integrated Development due to its basement depth (Water NSW). The proposal seeks to amend the design of the approved residential flat building with alterations to the lower levels and two (2) additional storeys in height resulting in an additional six (6) units.

The proposal is different to the approval as it involves an additional 2 floors (levels 9 and 10) and changes to the design of the approved units on the lower levels. In this regard, the overall housing mix will change as outlined in the table below. The additional two floors will contain 9 units while the total number of units on the site will increase from 50 to 56.

Criteria	Previously approved scheme (DA-2023/50)	Proposed scheme (DA-2024/309)
Breakdown of apartments	50 residential units 6 x studio units, (12%) 9 x 1 bedroom units, (18%) 33 x 2 bedroom units, (66%) 2 x 3 bedroom units, (4%) (5 or 10% adaptable units) (Nil or 0% affordable units)	56 residential units 0 x studio units, (0%) 11 x 1 bedroom units, (20%) 37 x 2 bedroom units, (66%) 8 x 3 bedroom units, (14%) (12 or 21% adaptable units) (12 or 742.5m2 - 15.6% affordable)
Building Height 26.5m - BLEP 2021 34.45m - SEPP Housing	27.1m (0.6m or 2.3% variation)	33.6m (SEPP compliant)
Floor Space Ratio 2.2:1 - BLEP 2021 2.86:1 - SEPP Housing	2.2:1 or GFA of 3,657.9m2	2.86:1 or GFA of 4,754.8m2 (SEPP compliant)

The additional two floors will contain the following mix of units:

- Level 9: 4 x 2 bedroom and 1 x 3 bedroom units – 5 units
- Level 10: 2 x 2 bedroom and 2 x 3 bedroom units – 4 units

The 56 units will comprise 44 build to rent apartments and 12 affordable rental apartments. The proposal will also include one (1) additional basement level resulting in a total of four (4) basement levels for the building.

In summary, the proposed changes will include the following:

Basement Level 4

- Add a new basement level incorporating a total of:
 - 59 parking spaces (including 6 parking spaces for affordable apartments)
 - 11 visitor parking spaces
 - 4 motor bike spaces

Basement Level 3:

- Relocation of storage spaces to allow space for ramp to Basement 4 level.
- Reconfiguration of bicycle room to allow for more bicycle parking spaces.

Basement Level 2:

- Replacement of 2 car parking spaces with the main switch room.

Basement Level 1:

- Internal reconfigurations to accommodate bulky waste room and recycling room.
- Internal reconfiguration of the waste collection room.

Ground Level:

- Expansion of common stairwell and internal reconfigurations to accommodate the expansion.
- Addition of an accessible toilet.

Level 1:

- Amalgamation of 2 studio units to a 1-bedroom unit.
- Alterations to internal layout of the 2-bedroom unit to accommodate the stairwell expansion.
- Internal alterations to bathroom layout of 1-bedroom unit.

Levels 2 & 3:

- Alterations to internal layout of the 2-bedroom unit to accommodate the stairwell expansion.
- Internal alterations to bathroom layout of 1-bedroom unit.

Levels 4-7:

- Alterations to internal layout of the 2-bedroom unit to accommodate the stairwell expansion.
- Amalgamation of one studio unit and a 2-bedroom unit to a 3-bedroom unit.
- Alterations to the 2-bedroom unit layout.

The development will change from 50 units (build-for-rent) to 56 units (comprising 44 build to rent apartments and 12 affordable rental apartments). The 12 affordable units include 7 x 1 bedroom and 5 x 2 bedroom units and have 6 car parking spaces allocated. The affordable housing units will be managed by *HomeGround Real Estate Sydney* which is a not-for-profit registered Community Housing Provider.

The proposal involves demolition of all existing structures and construction of an eleven (11) storey residential flat building comprising of 56 apartments (up from 50), the same vehicular access along Charles Street, 4 basement carpark levels (increase from 3 basement levels) and associated landscaping at ground level and consolidation of the site. The proposal includes a total of 11 x 1-bedroom, 37 x 2-bedroom and 8 x 3-bedroom residential units on the site with no commercial floor space. It will also include 70 car parking spaces (up from 63) and storage areas within the 4 basement levels. The parking includes 11 visitor car parking spaces, 32 bicycle spaces and 4 motorbike spaces. The communal open terrace is on Level 8 (not the roof top) and has a communal open space area of 33.4m².

The proposal includes a 4 storey street wall height along Charles Street with a setback of 5.88m (previously 6m) while the upper levels have a 9.5m setback to the wall (up from 8m) and 5.88m setback to the balustrade (slab edge). The front elevation has been broken up and steps back at the bend in the street at the northern end, similar to the current approval.

The site falls to the front (east) and the proposal includes a small ground floor level with frontage to Charles Street having 2 x 1 bedroom units on the ground floor (previously 1 x 2 bedroom and 1 x 1 bedroom dwellings) with plant rooms and basement access ramp to the side and behind.

The figures below are extracts of the proposal:

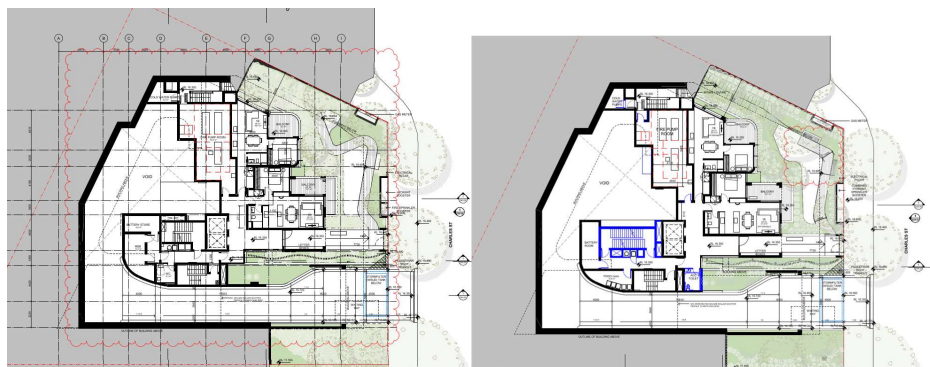


Figure 1 – Ground level plan previously approved (left) and proposed (right)



Figure 2 – North elevation previously approved (left) and proposed north elevation (right) which steps down from the rear to Charles Street (to the east)

The proposal will include a new development consent (DA-2024/309) with changes to the previously imposed conditions of consent (DA-2023/50) and an additional condition confirming amendment to the previous application should the applicant proceed with this application. Several conditions shall be amended including condition 1 referring to the new plans, condition 10 – parking, conditions 14 to 18 – referrals, condition 41 aircraft noise and other general conditions relating to stormwater management and engineering matters.

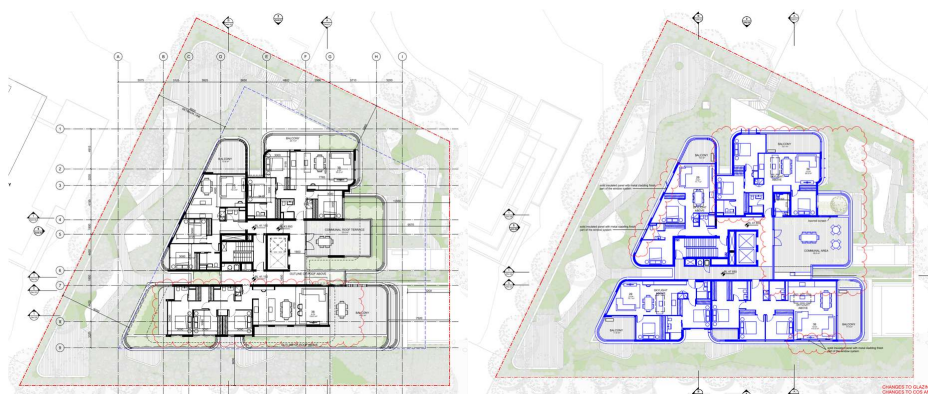


Figure 3 – Level 8 plan previously approved (left) and level 10 plan proposed (right)

Site Location and Context

The site comprises three lots which are described as Lot A (No. 3) and Lot B (No. 1) in DP 654647 and Lot 11 (No. 5) in DP 6602. These three (3) lots have an area of approximately 1,662.8 m². The site fronts Charles Street to the east at the front of the three lots which then bends to the west and continues halfway along the northern side boundary.

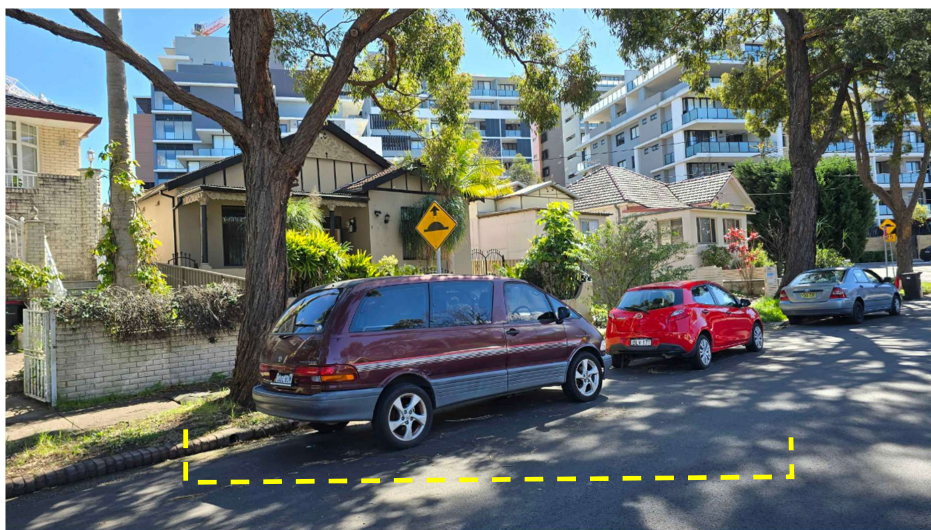


Figure 4 – Photograph of the subject site from Charles Street in a north-westerly direction

The site adjoins a mixed use development to the north and west which fronts the Princes Highway and is known as 106-122 Princes Highway. The site adjoins a narrow lot at 130-130A Princes Highway in the south-western rear corner which contains a small commercial / industrial building and a residential dwelling house to the south at No. 7 Charles Street. An approval has been issued (DA-2018/196) on these lots to the south (130-140 Princes

Highway & 7 Charles Street, Arncliffe) for a ten (10) storey mixed use development with access from 7 Charles Street which has not yet been constructed. Opposite the site at 2A Charles Street & 15-17 Kyle Street, Arncliffe is a development application that was approved by Council (DA-2022/412) for an eight (8) storey residential flat building. (Refer to Figure 4 below for the location of the neighbouring development sites).

The site is located within a street block bounded by Kyle Street (north), the Princes Highway (west/behind) and Wickham Street (south). The site is located in the Wolli Creek Redevelopment Area (DCP Part 7 – Special Precinct – Arncliffe and Banksia Precinct). The subject site is located within the Arncliffe Priority Planning Precinct and was up zoned from R2 Low Density Residential to R4 High Density Residential zone. The site is located within the Design Excellence area under Section 6.10 of the Bayside LEP 2021.

The subject site is a trapezoid shape and has a combined front boundary (east) of 29.985m to Charles Street, a northern side boundary of 34.74m (half of which has frontage to Charles Street at the bend), a depth of 53.06m and a combined rear boundary (west) of 50.1m. The site is located just before the kink in Charles Street and adjoins the recently constructed multi storey mixed use development on the corner of Kyle Street and the Princes Highway.

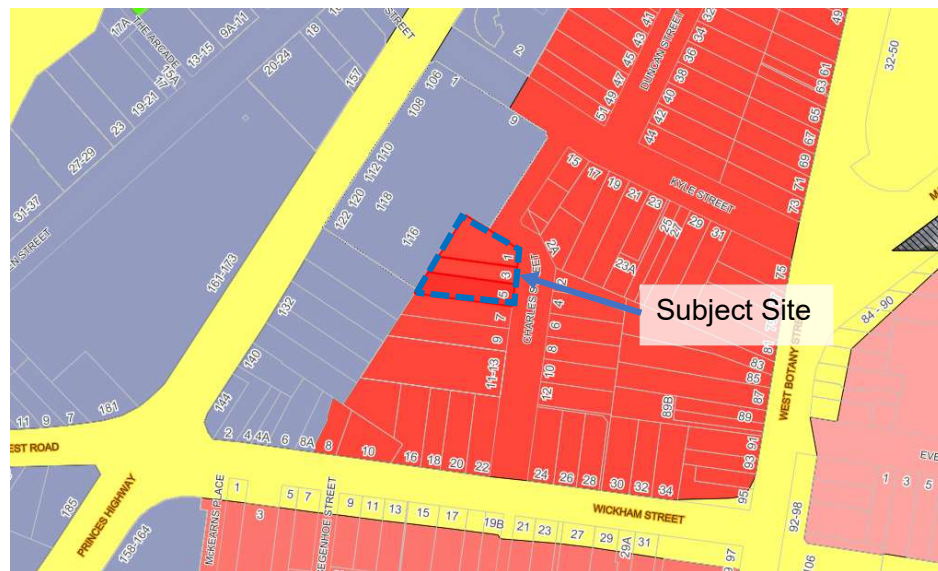


Figure 5 – Location of the site and R4 High Density Residential zone under BLEP 2021

The site has a fall from the rear (west) to the front (east) falling to Charles Street of approximately 3.5m. The site contains three dwelling houses with two of masonry and tile roof construction and one with fibrous cement and metal roof construction. Two of the three properties have driveways with direct access to Charles Street to the east and the northern property has one driveway to Charles Street after the kink to the north. The dwellings contain outbuildings including garages and sheds to the rear. There are five small trees adjacent to the southern side boundary of the site none of which are so significant as to warrant retention. The footpath at the front of the site contains a nature strip and three mature trees fronting Charles Street. These trees in the public domain are over 15m tall, significant and worthy of retention.

On the opposite side of Charles Street are a mixture of single storey dwellings to the east which include single storey bungalows with pitched tile roof and one modern flat roof recently constructed dwelling house with inground swimming pool to the rear at No. 6 Charles Street.

The site is zoned R4 – High Density Residential zone under the Bayside Local Environmental Plan 2021. The site is surrounded by residential development located on land which is also zoned R4 High Density Residential use to the east, and B4 Mixed Use to the west fronting the Princes Highway. Residential flat buildings are permissible within the R4 High Density Residential zone with development consent.

The subject site contains fifteen (15) trees which are all fruit and nut trees, however there are three Tallowwood trees (N1 to N3) and two Leighton's Green Cypress trees (N4 and N5) within the nature strip along Charles Avenue. The approved development included the removal of all 15 fruit and nut trees from the site and the two Leighton's Green Cypress trees within Council's nature strip to the north of the site. As approved, the proposal will retain the three Tallowwood trees with tree protection zones within Charles Street. The three Tallowwood trees are between 12m and 16m in height.

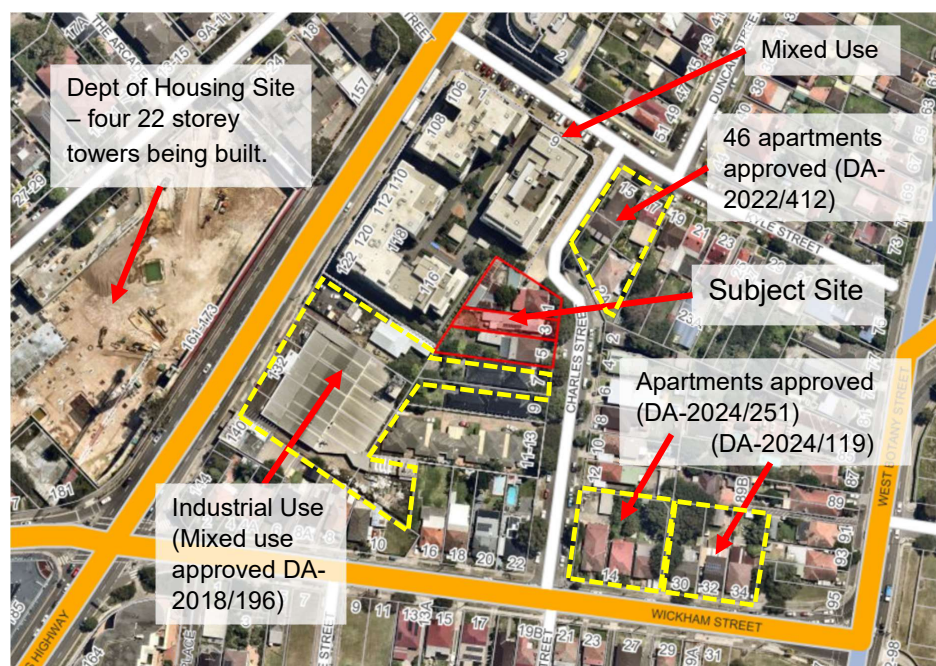


Figure 6 – Aerial photograph of the subject site and surrounding approvals

With the previous application Council's Tree Management Officer reviewed the scheme and advised that the three Tallowwood trees (N1 to N3) are to be retained, and the rest of the trees may be removed subject to conditions. The current proposal will involve the same with the trees on the site and conditions require the provision of compensatory planting.

The site is affected by the Building Height Civil Aviation Regulation being limited to 15.24m in height. The application was referred to the Sydney Airport Corporation Ltd who raised no objections to the proposal subject to the imposition of a condition of development consent.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979* ("the Act").

S4.46 – Development that is Integrated Development

The development application has been lodged as Integrated Development, as an approval under the Water Management Act 2000 is required, and specifically the development involves a temporary construction dewatering activity with a lower basement level than the previously approved development on the site.

The proposal involves excavation of an additional basement car parking level at a depth of 13m (previously 10 metres) or RL 3.8m AHD (previously RL 6.80m AHD). Testing on site has been undertaken and the geotechnical report prepared by JC Geotechnics dated 20 September 2024 demonstrates that groundwater was encountered at 4.3 metres (RL 14m AHD) and pumped out to a depth of 9.3m which filled to a depth of 6.5m after half an hour.

The modification application was referred to Water NSW for concurrence. In a letter dated 20 March 2024, Water NSW provided their General Terms of Approval (GTA) for the proposal. These have been incorporated within the Draft Notice of Determination.

S4.15 (1) - Matters for Consideration - General

S4.15 (1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policies

State Environmental Planning Policy (Sustainable Buildings) 2022

The applicant has submitted a BASIX Certificate for the proposed development namely, BASIX Certificate number **1744602M_05**.

Commitments made within BASIX certificates result in reductions in energy and water consumption on site post construction. A condition has been recommended to ensure that the stipulated requirements are adhered to. The proposal is satisfactory in this regard.

State Environmental Planning Policy (Housing) 2021 – (Housing SEPP)

Chapter 2 Affordable Housing

Section	Requirement	Proposal	Complies
15C – Development to which this provision	Permitted on land that includes residential development if the development is permissible under chapter 3, part 4, chapters 5 and 6 or another	The development includes residential development that is permissible under	Yes - complies

Section	Requirement	Proposal	Complies
applies	EPI. The affordable housing component is at least 10% The development is carried out on land within 800m walking distance of land in a relevant zone or equivalent land use zone.	chapter 3 and part 4 of the SEPP. The proposal includes 15.6% (12 of 56) affordable housing units. The site is located within 250m from Arncliffe Railway Station which is an accessible area.	Yes Yes
16 – Affordable Housing requirements for additional FSR	Maximum possible benefit of up to 30% increase in FSR. AF Minimum = 10% AF Component – additional FSR / 2	The proposal includes 15.6% AF housing thus benefits from 30% bonus FSR or 2.86:1 The proposal involves a GFA of 4,754m ² and an FSR of 2.86:1 which complies with the maximum bonus for the site under the SEPP.	Yes – complies
17 - Additional floor space ratio for relevant authorities and registered community housing providers	Bonus FSR for a relevant authority or community housing provider	N/A	N/A
18 - Affordable housing requirements for additional building height	Maximum possible benefit of up to 30% increase in building height. AF Minimum = 10% AF Component – additional height / 2	The proposal includes 15.6% AF housing and benefits from 30% bonus building height or 7.95m (max 34.45m) The proposal involves a height of 33.6m (RL 52.15m) which complies with the maximum bonus for the site (34.45m) under the SEPP.	Yes – complies
19 - Non-Discretionary Development Standards	(2)(a) minimum site area of 450m ² .	N/A	N/A
	(2)(b) minimum landscaped area that is the lesser of: - (i) 35m ² per dwelling (1820m ²) (ii) 30% of the site area (469.5m ²)	Total Landscaped area provided is 904.9m ² which equates to 16m ² per dwelling or 54.4% of the site	Yes - complies
	(2)(c) minimum deep soil of 15% of the site area where: - (i) Minimum dimension of 3m (ii) At least 65% to be located at the rear	261m ² – 15.7% with min 3m dimension Unique site with deep soil 604.7m ² at rear which is 67%.	Yes

Section	Requirement	Proposal	Complies
	(2)(d) living rooms and POS in at least 70% of dwellings have a minimum of 3 hours of direct solar access between 9am and 3pm in mid-winter.	Plans submitted show 80% or 45/56 units.	Yes
	(2)(e) parking spaces for affordable dwellings- (i) 1 bedroom – min 0.4 parking space (ii) 2 bedroom – min 0.5 parking space (iii) +3 bedroom – min 1.0 parking space	7 x 1 bed and 5 x 2 bedroom units 2.8 + 2.5 spaces = 5.3 or 6 spaces	Yes
	(2)(f) parking spaces for dwellings not used as affordable dwellings- (i) 1 bedroom – min 0.5 parking space (ii) 2 bedroom – min 1.0 parking space (iii) +3 bedroom – min 1.5 parking space (Note: Total development has 12 x 1-bedroom, 34 x 2-bedroom and 6 x 3-bedroom residential units).	4 x 1 bed & 32 x 2 bed & 2 x 3 bedroom units = 2.0+32+3 = 37 spaces The proposal provides 59 residential spaces (which includes 6 for affordable) and can comply with both requirements.	Yes
	(2)(g) minimum internal area as specified in the ADG for the type of residential development	Yes – sufficient internal area provided to comply with the ADG.	Yes
	(2)(h) minimum GFA for dual occupancies, manor housing or multi dwelling house as specified in Low Rise Housing Diversity Design Guide.	N/A	N/A
	(2)(i) minimum floor areas if paragraphs g and h above do not apply (i) 1 bedroom – min 65m2 (ii) 2 bedroom – min 90m2 (iii) +3 bedroom – min 115m2 plus 12m2 for each bedroom in addition to 3 bedrooms.	N/A	N/A
20 – Design Requirements	Not for dual occupancies, manor houses or multi-dwelling house unless considered the Low Rise Housing Diversity Design Guide Must consider whether the development is compatible with: (i) The desirable elements of the character of the local area (ii) For precincts undergoing transition, the desired future character of the precinct.	N/A Yes Yes	N/A Yes Yes
21 – Must be used for affordable housing for at least 15 years	The development must include affordable housing; The affordable housing component will be managed by a registered community	Yes Conditions shall be imposed in this regard.	Yes

Section	Requirement	Proposal	Complies
	housing provider.		
22 – Subdivision permitted with Consent	Land on which development has been carried out under this division may be subdivided with development consent.	The proposal does not include subdivision.	N/A

Affordable Housing FSR and Height Controls

Clause 16 – Affordable Housing requirements for additional FSR

The proposal complies with the FSR bonus under the SEPP as outlined above. The objective of this Division of the SEPP is the following:

The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

The proposal is consistent with this objective as it will contain 15.6% of dwellings as affordable housing. In this regard, the proposal is consistent with the objective of Division 1 of the SEPP in relation to Affordable Housing and is acceptable in this regard.

18 – Affordable housing requirements for additional building height

The proposal complies with the building height bonus under the SEPP as outlined above. The objective of this Division of the SEPP is the following:

The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

The proposal is consistent with this objective as it will contain 15.6% of dwellings as affordable housing. In this regard, the proposal is consistent with the objective of Division 1 of the SEPP in relation to Affordable Housing and is acceptable in this regard.

The applicant has provided the details of the Registered Community Housing provider, HomeGround Real Estate Sydney Pty Ltd, who will operate the affordable housing component of the proposed development.

Chapter 3 – Part 4 – Build to Rent Housing

Chapter 3, Part 4 of the *Housing SEPP* identifies specific development standards that apply to building to rent housing. The relevant controls assessed against the proposal are demonstrated below:

Section	Standard	Proposed	Compliance
72	Build to rent is permitted in the R4 High Density Residential zone. The proposal is Build-to-Rent if more than 50% shall be occupied under a residential tenancy agreement	Yes 84.4% proposed to be tenanted under a residential tenancy agreement.	Yes
73	Development to which this part applies cannot be	The applicant has stated in the SEE they are prepared	Yes – subject to a

Section	Standard	Proposed	Compliance
	supported unless a) the tenanted component of the building will not be subdivided into separate lots, and (b) the tenanted component of the building will be— (i) owned and controlled by 1 person, and (ii) operated by 1 managing agent, who provides on-site management.	to comply with these operational provisions in connection with the Residential Flat Building.	condition to be imposed
74	Non-discretionary development standards: - building height - floor space ratio - parking rate (accessible area)	- Complies with the building height control of 34.45m under the SEPP. - Complies with the FSR control of 2.86:1 under the SEPP. - Parking	Yes Yes Yes
75	Design Requirements - Be flexible when applying the ADG, (i.e., POS, storage and apartment mix) - Consider the objectives of the ADG in respect to – Amenities, services, common and shared. - Layout and configuration of dwellings - Can tenants relocate to other dwellings in the building	Yes – The proposal complies with the POS and min storage areas requirements of the ADG. The proposal does not include any studio dwellings but does include a suitable housing mix of apartments. Notwithstanding, the ADG has been applied flexibly and the proposal is acceptable in this regard. Yes – Amenities, services, common and shared facilities are equitable and achieve the objectives. Yes – layout and configuration of dwellings are acceptable. Yes – Tenants can relocate safely to other dwellings in the building.	Yes
76	Active ground floor uses in a business zone	Two residential units on the ground floor in a residential R4 zone – thus N/A	N/A
77	This SEPP does not remove the requirement to pay contributions	Contribution condition shall be imposed in this regard	Yes
78	Development consent must not be granted for development involving the subdivision of a residential flat building for which consent has been granted under this	The proposal does not involve the subdivision of the apartments within the residential flat building. Notwithstanding, the RFB has been considered in	Yes

Section	Standard	Proposed	Compliance
	Part unless the consent authority has considered the relevant provisions of the Apartment Design Guide in relation to the part of the building affected by the subdivision.	respect to the ADG as noted earlier in this report. Furthermore, a condition of consent shall be imposed in this regard.	

Chapter 4 Design Quality of Residential Apartment Development

This SEPP applies as it is a form of residential accommodation of 3 or more storeys and 4 or more dwellings.

In accordance with Section 28(2) of this policy, the consent authority must take into consideration the following:

a. The advice of the Design Review Panel (DRP)

The proposal has been referred to the Design Review Panel on Thursday 6 February 2025. The Panel supports the scheme with their detailed comments provided in the report below. The Applicant has amended their scheme and has provided their response on how the proposal has been modified to address the issues raised by the Panel.

The Panel have supported the revised scheme, confirmed it demonstrated Design Excellence and recommended that the proposal did not require submission back to them.

b. The design quality of the development when evaluated in accordance with the design quality principles.

The design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

Principle 1 – Context and Neighborhood Character

Panel Comment:

Acceptable

Council Comment:

The revised scheme will retain a near identical external appearance and attention to detail in respect to the materials and finishes that were previously approved on the site. The proposal is acceptable with respect to building context and neighbourhood character and will make a positive addition to the existing streetscape. The proposal is consistent with the future desired character of development within Charles Street.

Principle 2 – Built Form and Scale

Panel Comment:

The variation to FSR and building height under the SEPP is supported. However, the floor to ceiling heights should be increased to 3.15m and this will not breach the height plane. Level 10 terrace should be amended to maximise its size and introduce a bathroom and BBQ bench to one side. *“This could be achieved by repeating the layout at Level 9 and replacing the east facing 2 bedroom unit with the communal terrace and*

facilities. It is also recommended that the path and bench at the northeast of the property be cut back to reduce potential privacy impacts on adjacent units."

Council Comment:

The proposal complies with the benefit of additional FSR and height under the SEPP. In this regard, the proposal complies with these benefits under the SEPP. The floor to ceiling heights have been increased from 3.1m to 3.15m on each floor whilst complying with the maximum building height benefit under the SEPP. The terrace on level 10 has been improved with a BBQ on one side and access to a bathroom without reducing the size of the terrace. Accordingly, the revised scheme complies with the DRP requests and is acceptable in respect to built form and scale.

Principle 3 – Density

Panel Comment:

Acceptable

Council Comment:

The proposal complies with the maximum permissible density under SEPP and is acceptable in this regard.

Principle 4 - Sustainability

Panel Comment:

Acceptable generally, however:

- EV charging should be provided at basement levels
- West facing glazing appears excessive

Council Comment:

The basement plans do not include EV charging for the parking spaces however, a condition shall be imposed requiring provision for such. The applicant has amended the western façade with solid insulated panels and metal cladding finish as part of the window system to reduce thermal load and repetitive elements within the elevation. Based on the above, the proposal satisfies the DRP's request.

Principle 5 – Landscape

Panel Comment:

A shade structure should be provided to the BBQ area on the southwester corner and large tree provided to the BBQ area on the northwestern corner of the site. The roof should further extend to the southwest to align with the building partition. Different size trees should be provided to create an impact from day one and improve landscape amenity.

Council Comment:

A shade structure has been provided over the BBQ area and tree provided adjacent to the terrace as requested. The roof has also been extended to align with the building partition which provides some protection on the large terrace. A range of landscape elements has been provided which improves the landscape amenity.

Based on the above, the proposal is acceptable and complies with the request of the DRP to improve the scheme.

Principle 6 – Amenity

Panel Comment:

Acceptable based on the changes above.

Council Comment:

The proposed improvements are significant and have been carried out in accordance with the request of the DRP. The proposal is acceptable in respect to amenity.

Principle 7 - Safety

Panel Comment:

Acceptable.

Council Comment:

The proposal will retain suitable levels of pedestrian safety with adequate sight lines and lighting within and around the building. The proposal retains a suitable design with respect to crime prevention and conditions requiring CCTV will be retained. Accordingly, the proposal is acceptable in respect of safety.

Principle 8 - Housing Diversity and Social Interaction

Panel Comment:

Acceptable.

Council Comment:

The proposal is an improvement compared with the current approval, as it now contains affordable housing. Conditions shall be imposed with respect to the management and operation of the affordable housing component. The proposal includes passive and active communal areas and is acceptable in respect to housing diversity and social interaction.

Principle 9 – Aesthetics

Panel Comment:

Acceptable.

Council Comment:

The proposal will result in improved materiality with suitable fenestration that will add to the styles within Charles Street. The proposal will not dominate the street whilst adding to the range of styles and will satisfy the design quality principles in chapter 4 of the SEPP Housing.

The panel supports the application based on the above changes and confirm the scheme achieves Design Excellence in accordance with Section 6.10 of the BLEP 2021.

c. **The Apartment Design Guide**

The proposal has been assessed against the Apartment Design Guide (ADG). The proposed development is acceptable in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

SECTION	DESIGN CRITERIA	COMMENTS	COMPLIES												
3J - Bicycle and car parking	As per Guide to Traffic Generating Developments, or per council requirement, whichever is less. Parking provided off street. * 0.6 spaces / 1 bed = (11 x 0.6) = 6.6 spaces * 0.9 spaces / 2 bed = (37 x 0.9) = 33.3 spaces * 1.4 space / 3 bed = (8 x 1.4) = 11.2 spaces * Visitors = 1 / 5 units = 56 / 5 = 11.2 spaces Total required = 62.3	Total required = 62.3 car parking spaces Residential – 51.1 Visitor – 11.2 spaces Total Provided = 70 spaces provided Residential - 59 Visitor – 11 spaces	Yes – compliant. Thus, the scheme is acceptable												
4D – Apartment size and layout	Minimum internal areas: <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50M²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table> Internal areas includes only one bathroom. Additional bathrooms increase area by 5m² each. Further bedrooms increase minimum internal area by 12m² each.	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50M ²	2 bedroom	70m ²	3 bedroom	90m ²	Apartment sizes provided: Studio – N/A 1 bedroom – 50-52m2 2 bedroom – 75-80m2 3 bedroom 95-110m2	Yes - all units comply with the minimum size requirements		
Apartment type	Minimum internal area														
Studio	35m ²														
1 bedroom	50M ²														
2 bedroom	70m ²														
3 bedroom	90m ²														
4C – Ceiling heights	<table><tr><th colspan="2">Minimum ceiling heights:</th></tr><tr><td>Habitable</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>Two storey apartments</td><td>2.7m main living 2.4m first floor, area < 50% of apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge 30deg min slope</td></tr><tr><td>Mixed use area</td><td>3.3m for ground and first floor</td></tr></table>	Minimum ceiling heights:		Habitable	2.7m	Non-habitable	2.4m	Two storey apartments	2.7m main living 2.4m first floor, area < 50% of apartment area	Attic spaces	1.8m at edge 30deg min slope	Mixed use area	3.3m for ground and first floor	The floor to floor heights have been increased from 3.1m to 3.15m for all of the apartments and comply with the minimum requirements.	Yes
Minimum ceiling heights:															
Habitable	2.7m														
Non-habitable	2.4m														
Two storey apartments	2.7m main living 2.4m first floor, area < 50% of apartment area														
Attic spaces	1.8m at edge 30deg min slope														
Mixed use area	3.3m for ground and first floor														
3D - Communal Open Space	25% (415.7m2) Site Area	495.5m2 (30%)	Yes												
	50% (207.85m2) to receive 2 hours solar access in midwinter 9am - 3pm	208-213m2 10am-12pm	Yes												
3E - Deep Soil Zone	7% (116.396 m2) site area (249.42m2) larger than 1,500m2 Minimum Dimensions 3m	261.1m2 (15.7%)	Yes												
3F Visual Privacy	Min separation - side & rear boundaries: <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non habitable rooms</th></tr><tr><td></td><td></td><td></td></tr></table>	Building height	Habitable rooms and balconies	Non habitable rooms				The proposal contains the same variations to setbacks as	No – but is acceptable for the reasons outlined in Note 1 below and						
Building height	Habitable rooms and balconies	Non habitable rooms													

SECTION	DESIGN CRITERIA			COMMENTS	COMPLIES
	Up to 12m (4 storeys)	6m	3m	previously approved on the site. This includes the southern side setback of 4.5m, corner setback of 4.6m and front setback of 5.2m to the driveway. The other setbacks comply with the ADG. The variations are acceptable and have been addressed in more detail below. Please refer to Note 1 below for more information.	remain as previously approved under DA-2023/50. Please refer to Note 1 below for more information.
	Up to 25m (5-8 Storeys)	9m	4.5m		
	Over 25m (9+storeys)	12m	6m		
	Buildings on the same site combine required building separations. Gallery treated as habitable space				
3H – Vehicular Access	Car park access integrated with building façade & behind building line.			The driveway ramp to the car park is legible and integrated with the building façade.	Yes
	Garbage collection, loading & servicing areas screened			The garbage collection, loading and servicing areas is located within the basement and is screened from the street frontage.	Yes
	Pedestrian / vehicle access separated & distinguishable.			Pedestrian and vehicular access is separated within the frontage to Charles Street	Yes
4A – Solar and daylight access	Living rooms + POS of at least 70% of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter			At least 45 of the 56 units (or 80%) receive in excess of 2 hours sunlight to their balconies and living areas at midwinter.	Yes
	Max 15% apartments receive no direct sunlight b/w 9am & 3pm mid-winter			8 of 56 units (14.3%) do not comply with 2 hours while 3 of 56 (5.4%) have no direct sunlight.	Yes Yes
4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight. For buildings 10 storey and over, the max No. of apartments sharing a single			The proposal includes two lifts for 56 units in an 11 storey building.	Yes

SECTION	DESIGN CRITERIA	COMMENTS	COMPLIES															
	lift is 40. Max. 8 apartments off a single corridor and lift.	The development includes a min of 4 and max of 7 units on each floor.	Yes															
4E – Private open space and balconies	Primary balconies as follows: <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio</td><td>4m²</td><td>-</td></tr><tr><td>1 bed</td><td>8m²</td><td>2m</td></tr><tr><td>2 bed</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bed</td><td>12m²</td><td>2.4m</td></tr></table> Min balcony depth contributing to the balcony area is 1m. Ground level, podium or similar -POS provided instead of a balcony: min area 15m² and min depth of 3m.	Dwelling type	Minimum area	Minimum depth	Studio	4m ²	-	1 bed	8m ²	2m	2 bed	10m ²	2m	3+ bed	12m ²	2.4m	All units appear to comply.	Yes
Dwelling type	Minimum area	Minimum depth																
Studio	4m ²	-																
1 bed	8m ²	2m																
2 bed	10m ²	2m																
3+ bed	12m ²	2.4m																
4B – Natural ventilation	Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Ten storeys or > are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	47 of 56 (84%) units are naturally ventilated	Yes															
4G – Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4m²</td></tr><tr><td>1 bed</td><td>6M²</td></tr><tr><td>2 bed</td><td>8m²</td></tr><tr><td>3 bed</td><td>10m²</td></tr></table> At least 50% of the required storage is located within apartment.	Dwelling type	Storage size volume	Studio	4m ²	1 bed	6M ²	2 bed	8m ²	3 bed	10m ²	The proposal complies with these requirements. A condition will be imposed requiring compliance with the standards in the SEPP.	Yes					
Dwelling type	Storage size volume																	
Studio	4m ²																	
1 bed	6M ²																	
2 bed	8m ²																	
3 bed	10m ²																	

Discussion of ADG Non-Compliances

Note 1: 3F Visual Privacy and Building Setbacks

The proposal contains a 4.5m setback to the south on all levels and does not comply with the 6m setback up to 4 storeys and 9m setback above 5 storeys. However, the proposal is acceptable given the ample building separation with the approved development on the adjoining property to the south and the location of the driveway on the adjoining property. The separation will result in a suitable amenity for the apartments on the southern side of the building and minimal overlooking impact from neighbouring developments.

The proposal contains a min setback of 4.6m to the corner on the northern side of the site with the rest of the building being setback between 5.16m and 10m. While a portion of this setback does not comply with the 6m setback up to 4 storeys and 9m above, the site is located on a kink / bend in Charles Street and the corner wraps around the northern end of the building. As such, the variation to the northern side setback is not unreasonable and will maintain greater setbacks at other locations further along the northern side of the building. In this regard, the variation to the setback control is not unreasonable and will not result in any adverse impacts from building bulk or scale.

The proposal contains a 5.2m front setback from the driveway entry to the street and balustrades above while it contains a 7.73m setback from the units to Charles Street. This setback to the units increases to 8m on level 5 and above. While the driveway entry does not comply with the minimum setback, the proposal is not unreasonable given it provides legibility to the site, is consistent with Council's Street Wall height requirements, includes adequate vehicular and pedestrian safety, is integrated with the units above and corresponds well with the setbacks of neighboring buildings in the street.

The above variations are the same as the current approval and are acceptable as they are still consistent with the objectives of the setback control.

The proposal is consistent with all of the objectives of the setback controls outlined in Council's DCP 2022.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Division 5 / Subdivision 2 – Clause 2.48 – Development likely to affect an electricity transmission or distribution network

The application is subject to Clause 2.48 of the SEPP as the proposed works are within the vicinity of electricity infrastructure and therefore, in accordance with Clause 2.48(2), the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and take into consideration any response to the notice that is received within 21 days after the notice is given.

The previous application (DA-2023/50) was referred to Ausgrid for comment in March 2023. Ausgrid raised no objections to the proposed development subject to the imposition of conditions of consent which were incorporated within the development approval at the time. The current proposal will increase the number of residential apartments by 6 and was therefore not required to be referred to TfNSW. The previously imposed conditions of consent will be retained should be the revised scheme be recommended for approval.

Based on the above, the application is consistent with the provisions of the SEPP and is acceptable in this regard.

Division 17 / Subdivision 2 – Clause 2.122 – Traffic Generating Development

The proposal will involve 56 new dwellings on the site and is not identified as a traffic generating development under Schedule 3 of the SEPP as the development is less than 75 residential dwellings.

As such, the application was not required to be referred to TfNSW for comment. It is considered that the proposal will have acceptable impacts in terms of any potential traffic safety, freight/people movement, road congestion and parking implications.

The proposal is acceptable in respect of the provisions of Clause 2.122 of the SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

The provisions of Chapter 4 of the SEPP have been considered in the assessment of the proposal. Subsection 4.6 of the SEPP requires Council to be satisfied that the site is, or can be made, suitable for its intended use at the time of determination of an application.

The site appears to have been continuously used for residential purposes. The adjoining and adjacent properties are currently used for residential purposes. The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in the SEPP, in particular industrial, agricultural or defence uses. There is no significant excavation proposed.

On this basis, the site is considered suitable in its present state for the proposed residential flat development. No further investigations into contamination are considered necessary. The proposal satisfies the requirements of Subsection 4.6 of the SEPP.

Therefore, in accordance with Subsection 4.6 of the SEPP, Council is satisfied that the land is suitable for the purpose for which the development is proposed to be carried out.

It should be noted that in this instance remediation of the land is not necessary.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

This Chapter applies to non-rural areas of the State, including the Bayside local government area and aims to (a) *protect the biodiversity values of trees and other vegetation in non-rural areas of the State*, and (b) *preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation*.

This Chapter is triggered due to the need for approval to remove vegetation/trees as outlined in Bayside DCP 2022.

The application seeks consent for the removal of fifteen (15) trees from the subject site and two trees from the public domain whilst retaining three mature Eucalypts from the nature strip within Charles Street. The fifteen trees on the site (1 to 15) are largely fruit trees, some of which do not require approval to remove or have ill health. The two trees within the public domain (N4 and N5) are cypress trees located at the bend in the nature strip along Charles Street.

The removal of trees was considered in the assessment of the previous development application on the site (DA-2023/50). An arboricultural impact assessment report prepared by Mark Hartley (Arborist) and dated 30 August 2022 was submitted with the application. The report concluded as follows:

The proposal calls for the removal of all trees within the site boundary. The three Tallowwoods are shown as being retained and the two Cypress trees probably can be retained but may not be the most ideal species for their location.

The Tallowwood and the Cypress are fairly tolerant of root damage, and all are relatively young trees that are likely to respond well to appropriate protection and care. To that extent a site-specific Tree Protection Plan (specifications) and Tree Protection Plan (drawing) have been prepared and are included as a part of this report.

Council's Tree Management Officer reviewed the submitted Arborist Report and did not object to the removal of all of the trees on the subject site given their little value for retention and given that suitable replacement and compensatory planting in appropriate locations is proposed as part of the development. In addition, the proposal retained the three mature Eucalyptus trees within the nature strip along Charles Street. The previous development was approved with conditions for the retention of the three Eucalyptus trees, tree protection zones, a tree bond, tree replacement and the provision of compensatory tree plantings on the subject site.

The current proposal does not alter the above scenario in respect to the removal of trees from the site and retention of trees within Charles Street. As such, the previously imposed conditions shall be retained.

Subject to compliance with the conditions of consent, the proposal is satisfactory in relation to SEPP (Biodiversity and Conservation) 2021.

Bayside Local Environmental Plan 2021

The following table outlines the relevant Sections of Bayside Local Environmental Plan 2021 ("the LEP") applicable to the proposal, while aspects warranting further discussion follows:

Relevant Sections	Compliance with Objectives	Compliance with Standard / Provision
2.3 Zone and Zone Objectives	Yes - see discussion	Yes - see discussion
2.6 Subdivision requires consent	Not Applicable	Not Applicable
2.7 Demolition requires consent	Not Applicable	Yes - see discussion
4.1 Minimum subdivision lot size	Yes - see discussion	Yes - see discussion
4.3 Height of buildings	Yes - see discussion	Yes - see discussion
4.4 Floor space ratio ("FSR")	Yes - see discussion	Yes - see discussion
4.6 Exceptions to development standards	N/A	N/A
5.10 Heritage conservation	Yes - see discussion	Yes - see discussion
6.1 Acid Sulfate Soil Class 5	Yes - see discussion	Yes - see discussion
6.2 Earthworks	Yes - see discussion	Yes - see discussion
6.3 Stormwater and water sensitive urban design	Yes - see discussion	Yes - see discussion

Relevant Sections	Compliance with Objectives	Compliance with Standard / Provision
6.7 Airspace operations	Yes - see discussion	Yes - see discussion
6.8 Development in areas subject to aircraft noise	Yes - see discussion	Yes - see discussion
6.10 Design Excellence	Yes - see discussion	Yes - see discussion
6.11 Essential services	Yes - see discussion	Yes - see discussion

2.3 - Zone

The subject site is zoned R4 High Density Residential under the provisions of Bayside Local Environmental Plan 2021 (BLEP 2021). The proposal is defined as a residential flat building for the purposes of build-to-rent housing which constitutes a permissible development only with development consent. The **objectives of the** zone are:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure land uses are carried out in a context and setting to minimise impact on the character and amenity of the area.*
- *To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.*

The proposed development satisfies the objectives of the zone.

2.6 – Subdivision

As existing, the site comprises three lots, being Lots A and B in DP 954947 and Lot 11 in DP 6602. No subdivision is proposed as part of this application; which is consistent with the requirements of the SEPP (Housing) 2021. A condition of development consent shall be imposed requiring the consolidation of the three lots into one parcel.

The proposal is consistent with the requirements of Section 2.6 of the BLEP 2021.

2.7 - Demolition

The proposal seeks consent for demolition of the existing dwelling houses and ancillary structures on site including tree removal and vehicular crossings. In this regard, the proposal satisfies the provisions of this Section.

4.1 – Minimum Subdivision Lot Size

The site falls within an area designated to have a minimum lot size of 450sqm. The proposal does not involve the subdivision of land but will consolidate the 3 lots resulting in one lot with a total area of 1,662.8m². As such, the proposal complies with the requirements of this clause and is acceptable in this regard.

4.3 - Height of Buildings

A maximum height standard of 26.5 metres applies to the subject site.

The proposal has a maximum height of 33.6 metres (RL 52.7m AHD) which does not comply with the provisions of the BLEP 2021. However, it complies with the building height bonus (30%) under the SEPP Housing which is limited to 34.45m. As such, the proposal complies with the maximum building height under the SEPP and is acceptable in this regard.

4.4 – Floor Space Ratio

A maximum FSR standard of 2.2:1 (GFA of 3,658.2 sqm) applies to the subject site.

The proposal has a maximum GFA of 4,754.8 sqm and equates to an FSR of 2.86:1 which does not comply with the provisions of the BLEP 2021. However, it complies with the floor space ratio bonus (30%) provisions under the SEPP Housing which is limited to 2.86:1. As such, the proposal complies with the maximum floor space ratio under the SEPP and is acceptable in this regard.

5.10 – Heritage Conservation

The subject site is not identified as an Item of Environmental Heritage and is not located within a Heritage Conservation Area or located within proximity to Heritage item. Accordingly, this Section does not apply to the application.

Having regard to the above, the proposal is considered acceptable in terms of heritage impacts, subject to the imposition of conditions as recommended.

6.1 – Acid Sulfate Soils

Acid Sulfate Soils (ASS) – Class 5 affect the property. The subject site is not within 500m of an adjacent class 1, 2, 3 or 4 land that is below 5m AHD and the watertable is not likely to be lowered below 1m AHD on any adjacent class 1, 2, 3 or 4 land.

Based on the above, an Acid Sulfate Soils Management Plan is not warranted in this instance. Accordingly, the proposal is consistent with the objectives and requirements of Section 6.1 of the Bayside LEP 2021, and the proposal is acceptable in this regard.

6.2 – Earthworks

The proposal involves excavation within the site to accommodate four basement levels which is an increase of one level compared with the previous approval on the site. The depth of excavation proposed is approximately 15 metres BGL (RL 3.8 metres).

The applicant has submitted a geotechnical report prepared by JC Geotechnics Pty Ltd and dated 20 September 2024. The report demonstrates that excavation is likely to intercept the groundwater table below 4.3m even though testing did not reveal groundwater being encountered while digging the bore holes. Despite this, the report states that ground water is subject to seasonal and daily fluctuations being influenced by different factors. Regardless, the development triggers dewatering and is classified as integrated development which warrants GTAs from Water NSW against s.90(2) of the Water Management Act 2000.

The application was referred to Water NSW who raised no objections to the proposal subject to the imposition of conditions of development consent. Water NSW provided revised conditions (GTAs) which will replace the previously imposed conditions in the previous development approval and the proposal is acceptable in this regard.

The impacts of the proposed earthworks have been considered in the assessment of this proposal. Conditions will be retained in the Notice of Determination to ensure minimal impacts

on the amenity of surrounding properties, drainage patterns and soil stability. Accordingly, the proposal meets the objectives of this section and is acceptable in this regard.

6.3 – Stormwater and WSUD

The development proposes an on-site detention system (OSD) but does not include the 10,000L rainwater tank. Stormwater plans were submitted with the application which were not unlike the approved scheme for the site and were prepared by Mance Arraj Engineers and dated 16/9/24. The application was reviewed by Councils Development Engineer who had no objections to the proposal subject to conditions, including provision of a rainwater tank, which have been included in the recommended conditions.

6.7 – Airspace Operations

The site is located within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.

The application seeks approval for the redevelopment of the site to a maximum overall building height of 33.6 metres or 52.7m AHD. The previous approval was for 27.1m height or 45.3m AHD.

The application was referred to Sydney Airports Corporation Limited who did not object to the proposal on site to a maximum height of 33.6 metres or RL 52.7m AHD subject to conditions which included limiting the height to all lift overruns, vents, chimneys, aerials, etc. In this regard, should the application be approved, a condition of development consent shall be retained limiting the development to this height.

The proposal is satisfactory with respect to the objectives and requirements of this section.

6.8 – Development in Areas subject to Aircraft Noise

The subject site is located within the 15 to 20 ANEF Contour, thus subject to minimal adverse aircraft noise. Given the above, noise attenuation measures are not required for the proposed development.

The proposal was accompanied by an Acoustic Report prepared by Acoustic Logic dated 8 June 2024 (Revision 2) which examined the materials in the proposal and the aircraft noise impacts on the proposed dwelling. The acoustic report recommended the following;

Provided that construction details in Section 5.2 are adopted and implemented, internal noise levels for residential apartment development will comply with the acoustic requirements of the following documents:

- Rockdale DCP 2022;
- NSW Department of Planning and Environment – SEPP Transport and Infrastructure 2021;
- NSW Department of Planning and Environment – Developments near Rail Corridors or Busy Roads – Interim Guideline;

A condition shall be retained in the development consent requiring the development to comply with the requirements of Section 5.2 of the acoustic report. Accordingly, the proposal is acceptable in respect to the requirements of Section 6.8 of the Bayside LEP 2021.

6.10 – Design Excellence

In accordance with this Section, development consent must not be granted to development to which this Section applies unless the consent authority considers that the development exhibits design excellence. The Design Excellence section applies to the proposal and requires that the development deliver the highest standard of architectural, urban and landscape design.

The site is located within the Arncliffe / Banksia Precinct Area and the previous proposal (DA-2023/50) was considered by Councils Design Review Panel (DRP) on 1 June 2023. The previous development application has the same façade design and external appearance while the current application seeks to increase the height of the building. The current application was considered by the DRP on 6 February 2025 who resolved to support the application based on several improvements to the scheme and confirmed the application, as amended, achieves design excellence with Section 6.10 of the BLEP 2021. The applicant has made those changes as previously outlined in this report.

Section 6.10(4) provides a long list of matters that must be considered when considering whether a proposal exhibits design excellence. In this context, the proposal is considered to exhibit design excellence and achieve the matters specified in this clause, including:

- Achieving a high standard of architectural design with appropriate materials and finishes,
- Improving the quality and amenity of the public domain,
- Not detrimentally impacting on existing view corridors,
- Being largely compliant with Council's DCP apart from minor variations (such as setbacks), and,
- Being consistent with the previously approved development, apart from the increase in height and the number of units.

The provisions of this section are deemed to be satisfied given the above and that design excellence has been demonstrated and achieved. The proposal is satisfactory in this regard.

6.11 – Essential Services

Services are generally available on site to facilitate the proposed development. Appropriate conditions have been recommended requiring approval or consultation with relevant utility providers with regard to any specific requirements for the provision of services on the site.

S4.15(1)(a)(ii) - Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority

There are no draft environmental planning instruments of direct relevance to the proposal.

S4.15 (1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Bayside Development Control Plan 2022

The application is subject to the Bayside Development Control Plan 2022 ("the DCP"). This is the comprehensive DCP relevant to the proposal. The following table outlines the relevant Parts of the DCP applicable to the proposal, while aspects warranting further discussion follows:

Relevant Parts	Compliance with Objectives	Compliance with Standard / Provision
PART 3 – GENERAL DEVELOPMENT PROVISIONS		
3.1.5 Views	Yes - see discussion	Yes - see discussion
3.2 Design Excellence	Yes - see discussion	Yes - see discussion
3.3 Energy and Environmental Sustainability	Yes - see discussion	Yes - see discussion
3.5 Transport, Parking and Access	Yes - see discussion	Yes - see discussion
3.6 Social Amenity, Accessibility and Adaptable Design	Yes - see discussion	Yes - see discussion
3.7 Landscaping, Private Open Space and Biodiversity	Yes - see discussion	Yes - see discussion
3.8 Tree Preservation and Vegetation Management	Yes - see discussion	Yes - see discussion
3.9 Stormwater Management and WSUD	Yes - see discussion	Yes - see discussion
3.11 Contamination	Yes - see discussion	Yes - see discussion
3.12 Waste Minimisation and Site Facilities	Yes - see discussion	Yes - see discussion
3.13 Areas subject to Aircraft Noise and Airport airspace	Yes - see discussion	Yes - see discussion
3.14 Noise, Wind, Vibration and Air Quality	Yes - see discussion	Yes - see discussion
PART 5 – RESIDENTIAL AND MIXED-USE DEVELOPMENTS		
5.1.1 Fences and Walls	Yes - see discussion	Yes - see discussion
5.1.4 Quality of Design, Choice and Diversity	Yes - see discussion	Yes - see discussion
5.2.4 High Density Residential	Yes - see discussion	Yes - see discussion
PART 7 – SPECIFIC PLACES		
7.4 Arncliffe and Banksia Town Centre	Yes - see discussion	Yes - see discussion

The following elaborates on key matters from the above table.

Part 7 is dealt with first, as the DCP states: *“Provisions in the chapter [7] prevail over any similar provisions in other sections of the DCP”*.

Part 7 – Arncliffe and Banksia Town Centre

This Part of the DCP provides controls and guidelines for 17 areas within the Local Government Area. Not all areas are included. The areas chosen are either unique or have

been subject to detailed masterplanning controls, with more specific controls to guide development.

As stated, the provisions of this Part prevail over other Parts of the DCP, including where there is any inconsistency.

The site is located within the Arncliffe and Banksia Town Centre between Wickham and Kyle Streets.

Description

The subject site is located within the southern part of the Special Character Area known as Area 4 or the "Cahill Park Neighbourhood" as specified in Figure 55 of the BDCP 2022. The Cahill Park Neighbourhood area has been identified as an unresolved transition area between the higher density to the north and lower density to the south. The vision for the precinct is to provide a vibrant and attractive area for people to live and work with increased access to public transport, community facilities, open space, shops and local services.

The subject site is identified within the Cahill Park Neighbourhood being area 4 as a special character area. The proposal is consistent with the desired future neighbourhood character with an appropriate land use in that it will contain generous landscaped setbacks and be primarily for residential development. The proposal is consistent with the built form controls including appropriate setbacks, deep soil zones and the provision of high-quality amenity in respect to privacy.

The proposal will retain most of the view corridors to Botany Bay, as the apartments further to the west look out over the subject site. Properties to the west on the opposite side of Charles Street are yet to be developed and contain single-storey houses. The property at 24-28 Wickham St on the eastern side of Charles is currently vacant and a residential flat building is under construction. In this regard, the proposal is not likely to have any unreasonable impact on existing view corridors. However, view loss from the future redevelopment of sites to the west is unavoidable given the zoning of the land and this is addressed below in this report (please refer to section 3.1.5 of this DCP headed "Views"). The proposal will include a four-storey wall height with the upper levels setback further as required under Figures 72 and 73 of the Bayside DCP 2022. This is consistent with the previous approval on the site.

Based on the above, the proposal is consistent with and generally complies with the requirements outlined in section 7.4 of Council's DCP 2022 in respect to the Arncliffe Banksia Precinct.

PART 3 – GENERAL DEVELOPMENT CONTROLS

Part 3.1.5 – Views

The proposal will add two storeys to a previously approved nine (9) storey building resulting in an eleven (11) storey residential flat building with a terrace on level 10. The proposal generally complies with the maximum built form and height controls permitted for the site under the SEPP Housing. Neighbouring properties to the immediate west currently have buildings with the same number of storeys while those to the east are zoned for and will likely be redeveloped in a similar manner.

The increase in the building height by two (2) storeys will intrude upon and reduce views from the adjoining property to the west that extend out over the site to the east including Botany Bay and to the south, Brighton Le Sands. While this extent of view loss is significant for the units on

the two levels affected by the additional two storeys, the view loss is not detrimental as view corridors to the south will be retained. The extent of view loss does not provide sufficient grounds to refuse the application. In their report dated 6 February 2025, the Design Review Panel stated that the development does not detrimentally impact on existing view corridors. While adjoining properties benefit from access to views, consideration has been given to their retention in so far as is possible. In this instance, access to existing views is not possessed by right or any legal basis. Effort to reduce the degree of view intrusion further with the current design has proven ineffective and would dramatically reduce the building envelope and ability to develop the site in a manner for which it is currently zoned.

Based on the above, the proposal is not unreasonable despite the extent of view loss out over the site to the east. Amendments to the proposal could not ensure its consistency with the relevant provisions of Council's DCP 2022 in respect to view loss and the resulting impact is unavoidable in the circumstances of the case.

Part 3.2 – Design Excellence

An assessment against Design Excellence has been discussed in response to Section 6.10 of the LEP, in the previous section of this report.

Part 3.3 – Energy and Environmental Sustainability

The proposal will retain the same sustainability measures as previously approved on the site. The building has been designed with glazing proportions, window locations and passive shading devices to manage heating, thermal massing and unwanted energy gain. The proposal provides protection from the sun during summer with shading devices, privacy louvres, finishes and appropriate balcony placement and slab length to protect the level below. The front elevation comprises glazing and balcony overhangs but faces east and therefore will not result in any glare or reflection problem along Charles Street. A standard condition has also been imposed to ensure that the reflectivity index of glazing and finishing materials used on the facades and roof of the building shall not exceed 20%. The proposal complies with the minimum floor to ceiling heights which are shown in the table under the Apartment Design Guide (SEPP (Housing) 2021).

A BASIX Certificate has been submitted with the application, certificate number **1744602M_05**. Commitments made within BASIX certificates result in reductions in energy and water consumption on site post construction. This includes the use of photovoltaics on the roof. A condition has been imposed on the consent to ensure that the stipulated requirements are adhered to.

Accordingly, the proposal complies with the requirements of this clause and is acceptable in respect to energy and sustainability.

Part 3.5 – Transport, Parking and Access

The design and location of the parking facilities and pedestrian access on the site is acceptable having regard to the nature of the site.

Table 3 of the Bayside DCP stipulates the parking required, based on the proposed use. For this proposal, the residential flat building generates a requirement for 75 on site car parking spaces under Council' DCP 2022. The proposal will provide seventy (70) on site car parking spaces which are provided within the four basement levels, comply with the RTA Guide (not the DCP) control and the relevant Australian Standards. In this regard, the proposal is five spaces deficient of the DCP but complies with the Guide as stipulated under the Apartment Design

Guide (ADG). The proposal includes a sufficient number of bicycle (32) and motorcycle (4) parking spaces and a car wash bay within the basement parking level 1.

A Traffic and Parking Assessment report was submitted, prepared by Transport and Traffic Planning Associates Pty Ltd, dated September 2024. This report and development application were referred to Council's Development Engineer who had no objections to the proposal, subject to conditions which have been included in the recommended conditions. These conditions included one additional parking space be provided for visitors, affordable dwellings and increasing bicycle parking. These have been addressed by way of conditions of consent.

The proposal does not trigger the need for a Green Travel Plan and does not constitute traffic generating development. Proposed waste collection arrangements meet Council's specifications and requirements. The Waste Management Plan was referred to Council's Waste Management Officers who raised no objections to the proposal subject to the retention of the previously imposed conditions of development consent.

The proposal satisfies the transport, access and parking requirements of the DCP.

Part 3.6 – Social Amenity, Accessibility and Adaptable Design

The proposal has been designed so that the development is accessible from the public domain and internally. The development provides ramping and direct access from the footpath to the lift core and to communal open space at the rear.

The proposal provides 12 adaptable units out of the 56 (21%) within the development with these located throughout the different levels of the building. The development provides 6 accessible car spaces located within basement levels 2 and 3 and these spaces are located in proximity to the lifts.

The applicant provided an access report prepared by Accessible Building Solutions Pty Ltd and dated 24 April 2024 which is for the current application and references compliance with many documents including the Building Code of Australia (NCC), SEPP 65, Apartment Design Guide and the relevant Australian Standards relating to access. In this regard, the previously imposed condition imposed requiring compliance with the relevant measures to improve access within the development will be amended to refer to the new report and retained in the draft Notice of Determination. A Social Impact Assessment was not required for this proposal.

The proposal is satisfactory and complies with the objectives of this Part of the Bayside DCP 2022.

Part 3.7 and 3.8 – Landscaping, Private Open Space, Biodiversity and Tree/Vegetation Management

The proposed development retains the same building layout and provision of communal open space area as previously approved on the site. The use generates a required landscaped area of 15% of the site area. The proposal complies with this control, with 926.5m² (55%) of the site being landscaped area. The landscaped areas are provided on the ground floor, level 1 and on level 10 adjacent to the terrace. The proposal includes a deep soil area of 261.1m² (15.7%) of the site.

The proposal does not comply with the requirement that at least 20% of the front setback is landscaped area as it provides 250m² or 15% of the front setback as landscape area (deep soil) to Charles Street. This is no different to the previous approval for the site and is acceptable given the more than compliant landscaped area provided elsewhere on the site (i.e., within the remaining setbacks). The site is also located at the kink in Charles Street and will retain the existing mature trees along the western side of the site.

The proposal complies with the control that at least 75% of the landscaped area comprise planting areas within this setback, as opposed to paving/gravel with all of it having planting with deep soil and only the driveway representing 25% of the frontage.

The application was referred to Council's Landscape Architect who raised no objections to the proposal subject to the imposition of conditions of development consent. The conditions relate to the retention of trees, planting of new trees, maintenance, details of general landscape cover and the public domain, and submission of landscape details with the Construction Certificate.

The proposed residential flat development contains private open space areas on the balcony to each of the residential apartments and communal open space areas that comply with the requirements of and as discussed in the assessment of SEPP 65 previously in this report.

The proposal seeks to remove and place numerous trees on the site. However, the proposal will provide compensatory plantings, as outlined previously in this report. Please refer to the section headed, *State Environmental Planning Policy (Biodiversity and Conservation) 2021* for more information.

The proposal will retain the existing three mature Eucalyptus trees from Council's street verge. This was addressed by way of conditions of consent in the previous application and will be retained in the current application.

Council's Tree Management Officer has recommended conditions be imposed, which have been included in the recommended conditions of consent.

The proposal is satisfactory in regard to the objectives and provisions of Parts 3.7 and 3.8 of the DCP, subject to recommended conditions.

Part 3.9 – Stormwater Management and WSUD

An assessment against stormwater management has been discussed in response to Section 6.3 of the LEP, in the previous section of this report.

Part 3.11 – Contamination

An assessment of contamination has been discussed in response to *SEPP (Resilience and Hazards) 2021* in a previous section of this report.

Part 3.12 – Waste Minimisation and Management

A Waste Minimisation and Management Plan prepared by Elephants Foot Company and dated 6 August 2024 Revision J was submitted with the application listing methods for minimising and managing construction and ongoing waste on site.

The waste management proposed on the site includes use of the bin storage room and loading bay on basement level 1 and complies with Council's requirements in respect to waste collection and management.

The proposed waste arrangements and report was reviewed and is largely consistent with the previously approved plan on the site for waste collection. In this regard, no objections are raised to the proposal and the appropriate conditions have been modified and retained in the recommended conditions for the application.

3.13 – Development in areas subject to Aircraft Noise and Sydney Airport Operations

The proposal does intrude into the Sydney Airport OLS and PANS-OPS. The proposal was referred Sydney Airport Corporation, who raised no objections to the proposal subject to the imposition of conditions of development consent.

The proposed use is sensitive to aircraft noise and is within the ANEF 15-20 noise contour. This has been discussed in response to Section 6.8 of the LEP previously.

3.14 - Noise, Wind, Vibration and Air Quality

Noise considerations related to road and rail noise have been addressed previously in response to *SEPP (Transport and Infrastructure) 2021*.

The acoustic considerations to and from the proposed use are acceptable in the context of the objectives and provisions of the DCP.

PART 5 – RESIDENTIAL AND MIXED-USE DEVELOPMENTS

5.1.1 - Fences and Retaining Walls – General Controls

The objective of the fencing controls is:

To ensure fence design, pattern, style, materials, and construction are compatible with the envisaged streetscape and local character

The proposal is consistent with this objective as it is sympathetic with the proposed development, contains suitable materials and finishes and is compatible with the existing streetscape along Charles Street. The proposed fencing can comply with Council's fencing requirements in accordance with the Bayside DCP 2022 and is acceptable in this regard.

5.1.1.1 - Fence design and materials

The proposed metal palisade fencing will not obscure sight lines from the driveway ramp, has been designed with an appropriate height and scale and is acceptable in respect to the residential flat development.

5.1.4 - Quality of Design and Housing Choice and Diversity

Design Excellence considerations have been addressed previously in response to the LEP provisions. An adequate site analysis plan was provided with the DA.

As the proposal contains more than 20 units, the DCP contains provisions related to unit mix, as below:

BDCP 2022	Previously Approved	Current Proposal
a. Studio: 5-10%	6 - 12%;	0 – 0%
b. 1 bedroom: 10-30%	9 – 18%	11 – 20%
c. 2 bedroom: 40-75%	33 – 66%; and	37 – 66%
d. 3+ bedroom: 10-100%	2 – 4%	8 – 14%

The proposed housing mix is generally compliant with the above requirements apart from no studio units being included. This housing mix is not unreasonable and will still provide a variation in housing density that will meet the demand of the residents in the locality. In this regard, the proposal is generally consistent with the above housing mix and satisfies the requirements of this clause in Council's DCP 2022.

5.2.4 - High density residential

5.2.4.1 - Streetscape, Local Character, and Quality of Design

The considerations for the local area outlined in Part 7 of the DCP have been addressed previously. The provisions of *SEPP (Housing) 2021 (which contains the Design Quality of Residential Apartment Development)* and the associated *Apartment Design Guide* have been addressed previously. The proposal is consistent with the objectives and controls relating to building design, materials and finishes.

5.2.4.2 - Built Form Controls

Some of the provisions of this Part of the DCP are similar to *SEPP 65 (Design Quality of Residential Apartment Development)* and the associated *Apartment Design Guide*, which have been addressed previously.

This clause has the following two objectives:

To ensure roof form, pitch, materials, and colours are compatible with those prevailing in the surrounding area.

Dwellings provided at the ground storey have a high level of engagement with the adjoining public domain.

The proposal will be consistent with the above two objectives, as the proposal will include materials and finishes that will be compatible with the surrounding high-density precinct and will include an appropriately designed ground floor that will engage with the public domain.

5.2.4.3 – Setbacks

The Design Quality of Residential Apartment Development and the associated *Apartment Design Guide* override this section of the DCP, and these have been addressed previously.

5.2.4.4 - Landscaping and Private Open Space

The provisions of *SEPP (Housing) 2021 (Design Quality of Residential Apartment Development)* and the associated *Apartment Design Guide* have been addressed previously. The landscaping controls in Part 3.7 of the DCP have been addressed previously.

The proposed terrace on level 10 with communal open space is satisfactory when considered against the objectives and provisions of this part of the DCP, noting that ample communal open space area has been provided and comprises a design which is usable and will benefit the future occupants of the development.

The proposal incorporates a terrace and ground floor communal area with an appropriate and suitable design for future occupants of the site. This complies with the objectives of Council's DCP 2022 in respect to the provision of communal open space including the following:

To ensure new dwellings have functional and high-quality landscaping and open space.

Accordingly, the proposal complies with the requirements of this clause of Council's DCP 2022.

5.2.4.5 - Solar Access and Overshadowing

SEPP 65 (Design Quality of Residential Apartment Development) and the associated *Apartment Design Guide* override this section of the DCP, and these have been addressed previously.

In terms of overshadowing to adjoining properties, the applicant has provided shadow diagrams at hourly intervals between 9am to 3pm for mid-winter (June 21) and hourly views

from the site as well as a communal areas shadow study showing the previously approved shadows and the likely extended or increase in shadow affectation.

The proposal comprises a single tower form which will result in overshadowing to the south in the morning over the neighbouring properties fronting Wickham Street and to the south east over Charles Street in the afternoon. The proposal will result in an increase in the line of shadow cast onto the adjoining lots which is unavoidable and largely due to the orientation of the site. The plans show the increase in shadow from the additional two levels and the small additional increase from the increase in floor to ceiling heights (from 3.1m to 3.15m). The subject site is located in a street block which is zoned R4 High Density Residential and adjoins MU1 Mixed Use to the west under the Bayside LEP 2021.

The proposed increase in the line of shadow affectation will be a noticeable margin, however, this increase will affect the rear yards of the dwellings along Wickham Street to the south and then reduce throughout the day given the elevation of the sun. The shadow will affect several of the dwellings on the eastern side of Charles Street later in the day after 2pm. As such, the increase in the shadow line will swing from the south to the east throughout the day and will still allow natural light to penetrate these properties in the afternoon and morning respectively.

During the equinox and summer months, the proposal will result in considerably less shadows cast to the south and southeast and is acceptable in this regard.

The proposal will still retain sufficient access to natural light for the adjoining properties to the south and southeast despite the increase in building height. As such, the proposal is not unreasonable in respect to shadows and complies with the requirements of Council's DCP 2011.



Figure 7 - Shadow diagram showing shadows cast by the development in mid-winter at 1pm.

In addition to the above, the DCP contains the following objectives regarding solar access:

To ensure that sunlight access:

- *is provided to private open space and habitable rooms within the development; and*
- *is not unreasonably diminished for neighbouring properties and the development site.*

The proposal is consistent with these objectives because the plans submitted demonstrate that sufficient natural light will be retained to the proposed communal open space areas on the site in so far as is possible within the high-density precinct. Further, the increase in the line of shadowing will unreasonably diminish access to natural light for the neighboring properties.

Given the above assessment regarding the solar access and overshadowing objectives and controls, it is reasonable to conclude the proposal is acceptable in this instance.

5.2.4.6 - Parking and Access

This has been addressed previously in accordance with Part 3.5 of the DCP and in response to relevant provisions of *SEPP 65 (Design Quality of Residential Apartment Development)* and the associated *Apartment Design Guide*.

5.2.4.7 - Visual and Acoustic Privacy

An assessment of potential privacy impacts upon neighbours has been undertaken having regard to the controls and objectives of this Part of the DCP.

The proposal incorporates two additional floors within the same single tower form that was previously approved on the site. The proposal will retain the same appropriate building setbacks that are landscaped on all sides of the site. The proposed balconies on the additional two floors are located to the north and southern elevations of the building floor plate to minimise overlooking to the west. The additional two floors do not represent any significant increase in loss of privacy as the building separation of 13m on the lower levels which increases to 21m for the upper levels with landscaping in between will retain sufficient privacy.

The proposal includes adequate building setbacks with separation from the multi storey mixed use development on the adjoining property to the west. The approved building will have a 9m separation on all levels to the rear (western) boundary and the adjoining building will have a setback of 5 for the first floor levels then a minimum of 12m for the levels above.

The proposal includes acoustic privacy measures with louvres and screening for the north facing apartments and the communal area on level 10 is at the front of the site overlooking Charles Street with an appropriate landscaped front setback. The proposal includes retention of the appropriate design of open space areas and dwellings above the basement levels. The proposal will retain the suitable driveway location at the southern end of the eastern frontage to Charles Street and the residential floors have a suitable separation of 3.15m floor to floor. An acoustic report was submitted with the application and includes measures to retain reduced internal noise levels to living areas within the apartments.

Accordingly, the proposal will retain suitable visual and acoustic privacy levels within the development and complies with the requirements in Council's DCP in this regard.

The objectives of this Part of the DCP are:

- *To site and design development to ensure a reasonable level of acoustic and visual privacy for residents within a development and between a development and adjoining sites.*

- To ensure attics do not result in excessive bulk or adverse impacts to the visual privacy of adjoining sites.

The proposal is consistent with the above objectives as it will retain a reasonable level of acoustic and visual privacy for residents both within the development and those on adjoining properties. It will not include excessive building bulk or result in an unreasonable loss of visual privacy for the adjoining properties.

5.2.4.8 – Materials and Finishes

These matters were previously considered above in relation to *SEPP (Housing) 2021 (Design Quality of Residential Apartment Development)* and the associated *Apartment Design Guide*.

5.2.4.9 - Entries

Building entries are easily identifiable, accessible, and positively contribute to the streetscape. The proposal meets the objective of this Part of the DCP and is acceptable when considered against the applicable controls and provisions.

Details regarding street numbering and letterboxes are addressed by the recommended conditions of development consent.

S4.15(1)(a)(iii) – Provisions any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

There is no planning agreement applicable to the proposal.

S4.15(1)(a)(iv) - Provisions of the Regulation

The applicant has provided a **Section 67 Notice of Modification** with the current application as it seeks to modify the previously approved development in DA-2023/50 which was for the demolition of all existing structures, tree removal, site amalgamation, and construction of a nine (9) storey residential flat building comprising fifty (50) build-to-rent residential apartments, three levels of basement parking and associated landscaping with a common terrace on Level 8 on the subject site. This application was approved by the Bayside Local Planning Panel on 13 February 2024.

In terms of provisions of the Regulation:

- The DA submission has included sufficient information to enable environmental assessment of the application (Clause 24);
- Concurrences and other approvals are addressed in the “Proposal” section of this Statement or in response to relevant SEPPs;
- No approval under the Local Government Act 1993 is sought as part of this DA (Clause 31(3)); and
- Demolition works are able to meet the provisions of Australian Standard (“AS”) 2601 and this is addressed by conditions of consent (Section 61(1)) OR No demolition works are proposed.

All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

S4.15(1)(b) - Likely Impacts of Development

This Section of the Act requires consideration of natural and built environmental impacts, and social and economic impacts. The potential and likely impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. The impacts that have not already been addressed or warrant some elaboration are as follows:

Natural Environmental Impacts

Trees

This has been addressed previously in this report. Please refer to the section headed SEPP Biodiversity and Conservation.

Acid Sulphate Soils

This has been addressed previously in this report. Please refer to the section headed Section 6.1 – Acid Sulphate Soils.

Excavation and Earthworks

This has been addressed previously in this report. Please refer to the section headed Section 6.2 – Excavation and Earthworks.

Stormwater Quality and Quantity

This has been addressed previously in this report. Please refer to the section headed Section 6.3 – Stormwater and WSUD.

Contamination

This was addressed previously in the original assessment report for the site. Please refer to the section headed SEPP (Resilience and Hazards) 2021.

Built Environmental Impacts

Streetscape

This has been addressed previously in this report. Please refer to the section headed SEPP (Housing) 2021 - Quality of Residential Flat Development.

Views

This has been addressed previously in this report. Please refer to the section headed Part 3.1.5 – Views.

Overshadowing

This has been addressed previously in this report. Please refer to the section headed Part 5.2.4.5 – Solar Access and Overshadowing.

Privacy (Aural and Visual)

This has been addressed previously in this report. Please refer to the section headed Part 5.2.4.7 – Visual and Acoustic Privacy. Visual Impacts

Traffic and Parking

This has been addressed previously in this report. Please refer to the section headed Part 3.5 – Transport, Traffic and Parking.

Construction Impacts

Construction of the residential flat development involves excavation works, piling, and construction of the building. The impacts will be minimised through use of standard conditions relating to hours of construction, noise and vibration, dust suppression, traffic management, shoring of adjoining properties, and the like. A draft condition is also proposed requiring submission of a Construction Management Plan (CMP) that will address all relevant conditions and include measures to be implemented to minimise impacts to nearby residents / tenants and the public during construction.

Social Impacts

The proposal will enhance the public domain and include suitable landscaped front setbacks, an appropriate building context in Charles Street and an efficient and usable design of open space on the site. The residential flat building will set a high standard for Charles Street, include a unique design that will add to the styles in the street and improve the use of space on the site in accordance with the zoning of the land. The residential units have access to good public transport that will assist in reducing car use and include motorcycle and bicycle parking. The proposal is not considered to result in any significant adverse social impacts.

Economic Impacts

In terms of economic impacts, the proposal will cause no anticipated negative economic impacts and will result in positive economic impacts from both housing and social housing, the use of materials and labour needed for construction of the proposal and the long term maintenance of the structure.

S4.15(1)(c) - Suitability of the Site

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal, throughout this report. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development. Appropriate conditions of consent are proposed to be retained and imposed to further manage and mitigate impacts on neighbouring properties and the environment. Subject to the recommended conditions, the revised scheme is suitable for the site.

S4.15(1)(d) - Public Submissions

Public Submission

The development has been notified in accordance with the DCP, between 18 November 2024 and 18 December 2024. During this time eleven (11) unique submissions have been received by Council in respect to the scheme.

The amended plans were not required to be renotified because the amendments made were minor and sought to improve the scheme based on the comments from Council and the Design Review Panel.

The issues raised in the submissions are discussed below:

Issue 1: Building Height is not appropriate, consistent or reasonable and is an overdevelopment, it exceeds the maximum 26.5m height control under the BLEP 2021 up to 34.45m

Comment: The SEPP (Housing) 2021 was introduced to increase the provision of affordable housing in the area and applies to whole state. The SEPP permits bonuses to height and floor space and the proposal seeks to increase the provision of affordable housing in the area and benefit from the bonuses. The increase in height is permissible with the consent of Council.

Issue 2: Increased traffic within Charles St which is restricted and narrow, increased traffic congestion with more street blockages, queuing vehicles exiting Charles St, conflicts at the intersection with Wickham St.

Comment: The proposal will include an additional 6 dwellings on the site while converting 12 dwellings to affordable housing. In this regard, the anticipated increase in traffic generation is not likely to be significant given the likely changes to the number of vehicles accessing the site. A Traffic and Parking report prepared by Transport and Traffic Planning Associates) was submitted with the application and referred to Council's Development Engineer who reviewed the application. Council's Development Engineer raised no objections to the scheme in respect to traffic and parking, subject to the imposition of conditions of development consent. These relate to the correct number of parking spaces being provided for the different residential uses, bicycle parking and other access requirements.

The design and layout of the basement parking levels is the same as approved, but with an additional level to cater for the additional dwellings.

While the increase in dwellings may add to vehicles accessing the site during the peak periods, the general increase would not be apparent when compared to the previously approved scheme. The proposal is not likely to result in any significant adverse impact upon road safety or the free flow of traffic within the surrounding road network. Accordingly, the proposal is acceptable in respect to the likely traffic generation and not likely to result in any unreasonable traffic queuing or conflicts along Wickham Street.

Issue 3: Parking rates used are inadequate, observation of the area shows reduced use of public transport and increased private vehicle ownership, insufficient on-street car parking given the surrounding high density residential precinct.

Comment: The provisions of SEPP Housing allow a reduced rate of on site car parking below that normally required under Council's DCP 2022. This is in light of the affordable housing component which ordinarily generates the need for fewer on site car parking spaces and increased use of public transport in proximity to the site. The proposal complies with the minimum provision of on site car parking as required under the SEPP Housing, the RTA Guide, Apartment Design Guideline and is acceptable in this regard. The proposal can comply with the on site parking and access requirements of AS 2890.1 and Council's DCP 2022 (Bayside Technical Specification – Traffic, Parking and Access adopted 10 April 2023).

Issue 4: Service vehicles and large trucks often take up street parking, visitor spaces on the site are often used by service vehicles.

Comment: Large vehicles parking within Charles St are temporary the construction of the proposed development. While another property within the street is being redeveloped, there will be numerous vehicles parked within the street. This lack of on street car parking is temporary and the proposed development complies with the minimum provision of on site car parking to service the needs of the future occupants of the development.

Issue 5: Extensive overshadowing of residential areas to the south and east of the site

Comment: This has been addressed previously in this report. For more information, please refer to the section titled "5.2.4.5 - Solar Access and Overshadowing" in the section addressing Council's DCP 2022.

Issue 6: The affordable housing benefits achieve nothing and are unreasonable with scant regard for the existing residential environment, the height variation is more prominent on visual comparison with the adjacent buildings.

Comment: The adjoining property to the west contains an eleven storey mixed use development that has the same total number of storeys as the development proposed. The current proposal is an increase of two storeys to include affordable housing and in this regard, is consistent with the

context of the surrounding properties in respect to built form. The proposal achieves an increase in the number of units which will serve to provide a greater range of residential units within the precinct whilst minimizing the impact on the site, surrounding properties and available infrastructure.

Issue 7: This building will stop natural ventilation to my unit, and I will have to use my air conditioner; it will reduce natural light, airflow and the overall look of our home (unit).

Comment: The proposed eleven storey development is not unlike the existing 11 storey building on the adjoining property to the west except it is one and a half storeys lower. The adjoining building is a mixed use development that includes 234 residential units (DA-2016/26) fronting the Princes Highway. While the proposal will reduce a small portion of the airflow and limit easterly breezes, it will not be detrimental in this regard and the site is zoned for this form of development. In addition, the proposal will not overshadow the adjoining property to the west as it is located to the southeast of it and will contain ample rear setbacks (i.e., more than compliant) to allow natural ventilation. The site is located to the east of the existing mixed use development and the proposed development will overshadow the adjoining properties to the south and east of the site, not the northwest. The proposal is consistent with the future desired character of the precinct which is zoned R4 for high density residential development.

Issue 8: The location of the BBQ area will generate significant noise and disruption to our complex.

Comment: The BBQ area and terrace are located on the eastern side of the building, being open to Charles Street but enclosed on all three other sides. The communal open space area is unlikely to result in any significant adverse noise generation that will affect the adjoining properties to the west given the terrace is on the eastern side of the building and mostly under the extended roof line.

Issue 9: I request a dilapidation report be submitted given the close proximity of the development and the basement levels.

Comment: The condition imposed on the previous consent that required submission of a dilapidation report shall be retained in this regard.

Issue 10: Loss of privacy to the balconies and common outdoor areas of adjacent buildings.

Comment: This has been addressed previously in this report. Please refer to the section titled "5.2.4.7 - Visual and Acoustic Privacy" under the section with Council's DCP 2022.

Issue 11: Significant loss of views to Brighton Le Sands and Botany Bay.

Comment: This has been addressed previously in this report. Please refer to the section titled Part 3.1.5 - Views under Council's DCP 2022.

Issue 12: There is only one open space area in a 300m radius of the site. There is a shortfall in retail and commercial areas in proximity to the site (e.g. convenience stores and supermarkets).

Comment: Within a 300m radius, the site benefits from access to two open space areas, including Riverine Park to the east and Wooroona Reserve to the west. Further away are more open space areas of larger proportions.

Adjoining the site to the rear are properties fronting the Princes Highway which are all zoned MU1 Mixed Use under the Bayside LEP 2021. These properties extend from Wolli Creek all the way down to Banksia. The land further down is then an E1 Local Centre zone which contains commercial uses. The MU1 zone includes provision for a range of commercial uses and allows retailing with shop top housing above, community facilities and recreation areas. The E1 Local Centre zone is expressly designed for a range of commercial premises and includes community facilities and indoor recreation areas. Based on the above, the Bayside LEP 2021 makes provision for retail and commercial areas in proximity to the site. Please note that such uses are driven by market forces and depend on demand generated by an increasing housing population.

Issue 13: The proposal will increase demand for train services at Arncliffe which are already over capacity in the peak hours. The T4 Illawarra line has been unable to meet a performance target of 92% during peak services for the last three years.

Comment: The site benefits from proximity to Arncliffe Railway station which will reduce reliance on private motor vehicle ownership. During peak periods, high volumes are currently experienced on Sydney's railway network not only at Arncliffe, but throughout the Sydney metropolitan area. Sydney Trains has confirmed that the railway network is currently undergoing significant repair and ongoing maintenance to cater for a growing demand and improve the aging railway line. In this regard, Sydney Trains will soon be able to cater for the increased patronage, and it would not be appropriate to refuse the proposed development based on the current level of rail service.

Issue 14: Loss of property values

Comment: No evidence of impact to property value has been accompanied to substantiate this claim. In this regard, the proposal will add significant value to improve the site.

Referral Comments

A summary of comments from other agencies and departments within Council are below:

Other agencies

The application was referred to Water NSW who raised no objections to the proposal subject to conditions being imposed.

Council Departments/Experts

Design Review Panel

No objection to the proposal subject to several minor amendments which have been made to the scheme.

Traffic Development Advisory Committee

No objection subject to recommended conditions, which have been included as conditions of consent.

Traffic and Public Domain

No objection subject to recommended conditions, which have been included as conditions of consent.

Development Engineer

No objection subject to recommended conditions, which have been included as conditions of consent.

Environmental Scientist

No objection subject to recommended conditions, which have been included as conditions of consent.

Tree Management Officer

No objection subject to recommended conditions, which have been included as conditions of consent.

Landscape Architect

No objection subject to recommended conditions, which have been included as conditions of consent.

Subdivision/Address and Road Naming

No objection subject to recommended conditions, which have been included as conditions of consent.

S4.15(1)(e) - Public interest

The proposal has been assessed against the relevant planning instruments and controls applying to the site, also having regard to the applicable objectives of the controls. As demonstrated in this assessment of the development application, the proposal is suitable for the site and has acceptable environmental impacts, subject to recommended conditions. Impacts on adjoining properties have been considered and addressed. As such, granting approval to the proposed development will be in the public interest, subject to the recommended conditions which help manage and mitigate environmental or potential environmental impacts.

S7.11 - Development Contributions

The proposed development involves an additional six (6) dwellings on the site with an increase from 50 to 56 units. The application was referred to Council's Development Contributions Planner who indicated the following:

The DA seeks alterations and additions to DA-2023/50, approved for a nine (9)-storey residential flat building, including construction of two (2) additional storeys (comprising six (6) additional dwellings). The amending DA changes the dwelling mix in the previously approved DA per the Architectural Plans (CM: 25/42903). The original DA (DA-2023/50) will be surrendered after the approval of the amending DA per the confirmation of the responsible planner (CM: 25/275318). Based on this, the S7.11 monetary contribution is levied for the whole new development after the amendment (not only for the changes due to the amendments). Therefore, the S7.11 monetary contribution is levied for 11 one- bedroom units, 37 two-bedroom units, and 8 three-bedroom units. Three (3) credits are given for the three (3) existing dwelling houses.

The Contributions Planner advised the following conditions shall be imposed:

A Section 7.11 contribution of \$1,060,000 shall be paid to Council. The contribution is calculated according to the provisions contained within Council's adopted Arncliffe and Banksia Local Infrastructure Contribution Plan 2020. The amount to be paid is to be adjusted at the time of payment, in accordance with the review process contained in the Contributions Plan. The contribution is to be paid prior to the issue of any compliance certificate; subdivision certificate or construction certificate. The contributions will be used towards the provision or improvement of the amenities and services identified below.

	Amount	Code
Transport	\$ 327,023.54	AB1
Stormwater Management	\$ 47,307.78	AB2

	Amount	Code
Open Space	\$ 204,834.21	AB3
Community Facilities	\$ 468,278.63	AB4
Administration	\$ 12,555.84	AB5
Total in 2025/26	\$ 1,060,000.00	

Housing and Productivity Contribution (HPC)

From 1 October 2023, the Housing and productivity Contribution (HPC) replaces the Special Infrastructure Contribution (SIC) in the NSW planning legislation. It applies to the DAs lodged after 1 October 2023 in the whole of the LGAs located within Greater Sydney (including Bayside Council). A further Order replaced the 2024 Order, on 30 June 2024.

The *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023* did not apply to the previously approved application on the site (DA-2023/50), given that the application was lodged on 15 March 2023 and was not finally determined on 13 February 2024.

However, the current application was lodged on 13 November 2024 and therefore the 2024 Order applies to the application. Notwithstanding this, the proposal will include six (6) new residential dwellings but convert twelve (12) of the units into affordable housing units. As such, the HPC is not applicable to affordable housing units managed by a registered housing provider and therefore no condition has been imposed in this regard.

Conclusion and Reasons for Decision

The proposed development at 1-5 Charles Street, Arncliffe NSW 2205 has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* including relevant environmental planning instruments and Bayside Development Control Plan 2022.

The proposed development, which seeks to carry out Alterations and additions to approved residential flat building (DA-2024/309) including one additional basement level, six (6) additional apartments and two (2) additional levels resulting in an eleven (11) storey building comprising 44 build-to-rent apartments and 12 affordable rental apartments associated landscaping with a common terrace on Level 10 and four (4) basement levels, is a permissible land use within the zone with development consent. In response to the public notification, eleven (11) submission were received by Council objecting to the scheme. The matters raised in these submissions include traffic, parking, overshadowing, privacy, views and noise. These matters have been discussed and addressed in this report and in this instance do not warrant refusal of the proposal.

The proposal is supported for the following main reasons:

- The proposal is acceptable when considered against all relevant State Environmental Planning Policies, including Chapter 2 Affordable Housing, Chapter 3 Build to rent housing, Chapter 4 Design Quality of Residential Apartment Development and the associated Apartment Design Guide.

- The development, subject to conditions, is consistent with the objectives of the R4 High Density Residential zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The development, subject to conditions, is consistent with the objectives of Bayside Development Control Plan 2022.
- The proposal and use as a residential flat building are suited to the site and area.
- The proposal is an appropriate response to the streetscape and topography and will not result in any significant or unreasonable impact on the environment or the amenity of nearby residents.
- The scale and design of the proposal is suitable for the location and is compatible with the desired future character of the locality.
- The issues raised by objectors have been considered and where appropriate, addressed via amendments to plans or conditions or consent. The matters raised are not sufficient to justify refusal of the application.
- Recommended conditions of consent appropriately mitigate and manage potential environmental impacts of the proposal.

Schedule 1 – Draft Conditions of Consent

Refer to draft conditions attached separately.



XXX September 2025

Our Ref: DA-2024/309 - PAN-484003
Contact: Michael Maloof - 9562 1686

Charles Street Holdings NSW Pty Ltd
Level 10 6 Mount Olympus Bvd
WOLLI CREEK NSW 2205

NOTICE OF DETERMINATION

Issued in accordance with section 4.16(1)(a) of the *Environmental Planning and Assessment Act, 1979*

Application No:	DA-2024/309
Property:	1-5 Charles Street, Arncliffe NSW 2205 (Lot 11 in DP 6602, Lot A in DP 954947 & Lot B in DP 954947)
Proposal:	Alterations and additions to approved residential flat building (DA-2024/309) including one additional basement level, six (6) additional apartments and two (2) additional levels resulting in an eleven (11) storey building comprising 44 build-to-rent apartments and 12 affordable rental apartments associated landscaping with a common terrace on Level 10 and four (4) basement levels
Authority:	Delegated to Bayside Local Planning Panel
Determination:	Approved, subject to Conditions of Consent in Schedule 1
Date of determination:	
Date consent commences:	
Date consent lapses:	

Your application was considered under the Environmental Planning and Assessment Act 1979. The application modifies the following previous consents:

- DA-2023/50 – Approved on 13 February 2024

REASONS FOR APPROVAL

The above development is approved for the following reasons:

- The proposed variation to the maximum building height control has been discussed and is acceptable subject to conditions of development consent.

Postal address

PO Box 21, Rockdale NSW 2216
ABN 80 690 785 443

Bayside Customer Service Centres

Rockdale Library, 444-446 Princes Highway, Rockdale
Westfield Eastgardens, 152 Bunnerong Road, Eastgardens

E council@bayside.nsw.gov.au

W www.bayside.nsw.gov.au

T 1300 581 299 | 02 9562 1666

Telephone Interpreter Services: 131 450

Τηλεφωνικές Υπηρεσίες Διαμεγνένων

خدمة الترجمة الهاتفية

電話傳譯服務處

Служба за преведување по телефон

-
- The proposal is an appropriate response to the streetscape and topography and will not result in any significant impact on the environment or the amenity of nearby residents.
 - The issues raised by objectors have been considered and where appropriate, addressed via amendments to plans or conditions or consent.
 - The development, subject to conditions, is consistent with the objectives of the R4 High Density Residential zone and the relevant requirements of the Bayside DCP 2022.
 - The scale and design of the proposal is suitable for the location, will add to the diversity of styles in Charles Street and is compatible with the desired future character of the locality.
-

ADDITIONAL INFORMATION

- To confirm the date upon which this consent becomes effective, refer to Section 4.20 of the *Environmental Planning and Assessment Act, 1979*. Generally, the consent becomes effective from the determination date shown on the front of this notice. However, if unsure applicants should rely on their own enquiries.
 - To confirm the likelihood of consent lapsing, refer to Section 4.53 of the Act. Generally, consent lapses if the development is not commenced within five years of the date of approval. However, if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
 - Division 8.2 of the *Environmental Planning and Assessment Act 1979* allows Council to review this Determination. Should you wish to have the Determination reviewed, an application should be made in accordance with legislative requirements. An applicant may request that Council review the Determination in accordance with Division 8.2 of the Act.
 - Under Section 8.7 of the *Environmental Planning and Assessment Act*, applicants who are dissatisfied with the decision of the consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within the timeframe specified by Clause 8.10 (1) of the *Environmental Planning and Assessment Act 1979*, from the date of this notice.
-

Should you have any queries please contact Michael Maloof on 9562 1686.

Christopher Mackey
Coordinator Development Assessment

SCHEDULE 1 – CONDITIONS OF CONSENT

The above development has been approved pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the following conditions:

GENERAL CONDITIONS

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan No.	Revision No.	Plan Title.	Drawn By.	Date of Plan
Architectural Plans				
DA0.01	H	Cover Sheet	Marchese Partners	16/02/2023
DA1.05	C	Site Plan		22/04/2024
DA2.00	M	Basement 4		13/09/2024
DA2.01	L	Basement 3		06/09/2024
DA2.02	L	Basement 2		06/09/2024
DA2.03	M	Basement 1		06/09/2024
DA2.04	N	Ground Level		06/09/2024
DA2.05	H	Level 1		18/03/2024
DA2.06	H	Level 2		18/03/2024
DA2.07	H	Level 3		18/03/2024
DA2.08	H	Level 4		18/03/2024
DA2.09	H	Level 5		18/03/2024
DA2.10	H	Level 6		18/03/2024
DA2.11	H	Level 7		18/03/2024
DA2.12	H	Level 8		18/03/2024
DA2.13	H	Roof Level		18/03/2024
DA3.01	G	Elevation - North		26/04/2024
DA3.02	G	Elevation – South		26/04/2024
DA3.03	G	Elevation – East		26/04/2024
DA3.04	G	Elevation - West		26/04/2024
DA4.01	G	Section A-A		13/09/2024

DA4.02	F	Section B-B		22/04/2024
DA4.03	H	Section C-C		13/09/2024
DA4.04	F	Sections Through Corridors		22/04/2024
DA4.05	G	Parking Ramp Section		13/09/2024
DA4.06	F	Loading Dock Section		22/04/2024
DA8.01	B	Material Board		09/09/2025
DA8.02	B	Exterior Finishes		09/09/2025
DA8.03	B	Privacy Screening		09/09/2025
Landscape Plan 000	B	Cover Sheet	Site Image Landscape Architects	17/03/2025
001	A	Tree Management Plan		10/05/2024
C101	B	Ground Floor		27/02/2025
C102	B	Level 10		17/03/2025
201	A	Ground Floor		10/05/2024
202	B	Level 10		17/03/2025
301	A	Ground Floor		10/05/2024
302	B	Level 10		17/03/2025
Stormwater Plan SW001	D	Title Page, Notes and Drainage Details	Mance Arraj	16/09/2024
SW010	C	Basement Level 3	Mance Arraj	16/09/2024
SW012	A	Step Iron and Oil Water Separator	Mance Arraj	22/04/2024
SW020	D	Ground Floor	Mance Arraj	29/05/2024
SW021	D	WSUD Catchment Plan	Mance Arraj	16/09/2024
SW022	C	Storm filter Tank Plan	Mance Arraj	22/04/2024
SW023	A	Gutter Flow	Mance Arraj	25/07/2023
SW024	A	Driveway Long Sections	Mance Arraj	25/07/2023
SW030	D	Layout and OSD	Mance Arraj	16/09/2024
SW031	B	OSD Discharge control pits	Mance Arraj	25/07/2023

SW032	C	OSD Catchment	Mance Arraj	16/09/2024
SW040	C	Roof level stormwater drainage layout	Mance Arraj	16/09/2024

Approved Documents			
Document Title.	Version No.	Prepared By.	Date of Document
Access Report	Original for DA	East Coast Approvals Group Pty Ltd	24/04/2024
Acoustic Report	2	Acoustic Logic	08/06/2024
Arborist Report	1.1	Arborist Network	13/04/2024
BASIX Certificate	1744602M_05	Efficient Living Pty Ltd	23/09/2024
BCA	1	East Coast Approvals Group Pty Ltd	02/12/2022
ESD Report	FinalV5	Efficient Living	29/05/2024
Traffic Report	G	Transport and Traffic Planning Associates	September 2024
Wind Report	1.2	SLR	May 2024

In the event of any inconsistency between the approved plans and documents, the approved plans prevail.

In the event of any inconsistency with the approved plan and a condition of this consent, the condition prevails.

REASON

To ensure all parties are aware of the approved plans and supporting documentation that apply to the development.

2. Construction Certificate Required

A Construction Certificate must be obtained from Council or a Principal Certifier prior to any building work commencing. Building work is defined under the *EPA Act Part 6*.

REASON

To ensure that a Construction Certificate is obtained at the appropriate time.

3. Compliance with the Building Code of Australia (BCA)

Building work must be carried out in accordance with the requirements of the BCA.

REASON

EP&A Regulation Clause 69(1).

4. Build-to-Rent

In accordance with Section 73 of the SEPP (Housing) 2021; the dwellings within the build-to-rent residential flat development shall not be subdivided into separate lots within a period of 15 years commencing on the day an Occupation Certificate is issued for the development. At the completion of this period, a separate strata subdivision application may be submitted to Council for approval.

REASON

To achieve compliance with the SEPP (Housing) 2021.

5. In-fill Affordable Housing

Units numbered GF.01, GF.02, 1.01, 1.02, 1.03, 1.04, 1.05 1.06, 2.06, 2.07, 3.06 and 3.07 shall be dedicated as affordable housing in accordance with the SEPP (Housing) 2021.

The dwellings to be used for the purposes of 'affordable housing' as per the provisions of the SEPP (Housing) 2021 shall be used as such for at least 15 years from the date of the issue of the Occupation Certificate.

The affordable units must be managed by a registered Community Housing Provider (CHP) and the CHP must ensure compliance with the occupant restriction and other provisions of the regulatory code established through the regulations in accordance with the Housing Act 2001.

A restriction on title must be registered, before the issue of the Occupation Certificate in accordance with Section 88E of the Conveyancing Act 1919 that will ensure the above requirements are met and that the terms of the restriction may not be varied without Council consent.

Prior to an Occupation Certificate being issued, evidence must be provided to Council demonstrating that the Section 88E covenant has been registered on the title stating that the affordable rental housing component must be used for affordable rental housing and managed by a registered CHP.

Details of the registered CHP managing the property must be provided to Council prior to the issue of an Occupation Certificate.

The above provisions apply even in the event of the strata subdivision development.

REASON

Prescribed condition under section 82 of the Environmental Planning and Assessment Regulation 2021.

6. Amendment to Development Consent DA-2023/50

This consent amends development consent DA-2023/50 which was approved on 13 February 2024 for the demolition of all existing structures, tree removal, site amalgamation, and construction of a nine (9) storey residential flat building

comprising fifty (50) build-to-rent residential apartments, three levels of basement parking and associated landscaping with a common terrace on Level 8.

This consent replaces the originally approved conditions, with these conditions.

REASON

To ensure that the development approved by this Development Consent has the effect of amending the development the subject of Development Consent DA-2023/50, is carried out in an orderly economic and environmentally satisfactory manner consistent with the public interest, including ensuring that both Development Consents can operate together and that there is no inconsistency between each Development Consent.

7. Certification of External Wall Cladding

The external walls of the building, including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Principal Certifier must:

- a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC, and
- b) Ensure that the documentation relied upon in the approval process include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

REASON

To ensure development complies with the NCC and fire safety requirements.

8. Amendments Require Modification Application

Further alterations and/or additions to the subject building, including the relocation of the fire booster valves and/or provision of an electricity substation, the fitting of any form of doors and/or walls, shall not be undertaken without first obtaining approval from Council under Section 4.55 of the *EP&A Act*.

REASON

To avoid changes that may result in adverse impacts without proper assessment.

9. Enclosure of Structures

The balconies shall not be enclosed at any future time without prior development consent.

REASON

To avoid changes that may result in adverse impacts without proper assessment.

10. Earthworks Not Shown on Plans

No further excavation, backfilling or retaining walls can be carried out or constructed other than those identified on the approved drawings which form part of this consent unless it is otherwise permitted as exempt or complying development.

REASON

To avoid changes that may result in adverse impacts without proper assessment.

11. Approved Materials and Finishes

The finishes, materials and colour scheme including screening details approved under condition one (1) and any other relevant conditions of this consent must not be altered or amended at the construction certificate stage without a separate Section 4.55 approval.

REASON

To ensure that the development is finished in accordance with the approved plans and documentation.

12. Parking Allocation

Parking spaces and associated facilities shall be provided and allocated in accordance with the approved drawings / following table.

Use	Number of Spaces Allocated
Residential	
Residential market units (44)	A total of 52 car parking spaces allocated as per the following: • 0.5 space per studio/1 bedroom unit • 1 space per 2 bedroom unit • 1.5 space per 3 or more bedroom unit Any excess spaces are to be allocated to 2 and 3 bedroom units
Residential affordable units (12)	A total of 6 car parking spaces allocated as per the following: • 0.4 space per 1 bedroom unit • 0.5 space per 2 bedroom unit
Residential visitor	12 visitor spaces (including 1 shared use with car wash bay)
Car Wash Bay	1 car wash bay shared with visitor parking space
Loading Bay	1 SRV Loading Bay
Motorcycle parking	4 spaces
Bicycle parking	56 residential bicycle spaces 6 visitor bicycle spaces

The above allocation must be adhered and complied with at all times and shall be reflected in any subsequent Strata subdivision of the development.

All residential visitor spaces, car wash bays and loading bays shall be stated as common property on any Strata plan for the site.

All residential accessible parking spaces shall be allocated to adaptable dwelling units.

Any tandem / stacked parking spaces shall be allocated to a single residential / commercial unit only.

REASON

To ensure that car parking is provided and allocated in accordance with the approved plans and documentation.

13. Carrying out of works wholly within the Site

All approved works shall be carried out inside the confines of the site boundary and not in adjacent forecourts, yards, access ways, car parking areas, or on Council's footpath.

REASON

To avoid encroachment of the development beyond the site boundaries.

14. Tree Protection and Management

- a) The Applicant has permission to remove the following trees:
- Trees 1 to 14 which are within the site of which they are either shrubs or fruit trees which are subsequently exempt.
 - Tree 15 being a Palm Tree on the site.
 - Tree N4 & N5 which are located in the Public Domain.

These trees must not be removed until a Construction Certificate has been issued, unless otherwise agreed to in writing by Council.

- b) No other trees located within the site, adjoining properties or Council's nature strip shall be removed or pruned without the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan and/or *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.

Note: Specifically, the tree trees located within the nature strip along Charles Street must not be removed or pruned, including root pruning, without the written consent of Council. Located in the Public Domain are three (3) *Eucalyptus microcorys* (Tallowwood Gum) known as Tree N1-N3 which are to be retained and protected.

- c) The development proposal includes the removal of three (3) trees. To offset the loss of canopy Council requires a 3:1 replacement ratio, therefore a total of nine (9) new trees shall be planted to offset the canopy loss for environmental reasons. Trees shall be planted within and outside of the development site as specified by Bayside Council. Trees shall be planted at minimum 100 litres pot size, as a minimum. New street trees will be required to be planted at 200 litres pot size as a minimum. Location and tree species shall be defined by Council. All offset tree planting shall be delivered prior to the issue of the final Occupation Certificate, subject to a final inspection by Bayside Council. Trees included to be planted in deep soil at natural ground level in the development site are included in the replacement tree required.
- d) Supervision by Arborist - Prior to commencement of any works / Prior to issue of any Construction Certificate a suitably qualified project arborist (with minimum AQF Level 5 qualifications in Arboriculture) must be engaged to

advise on compliance with conditions of consent relating to the protection of trees at the site and to supervise the installation and maintenance of tree protection measures and arboricultural monitoring program required by this consent and the approved arboricultural impact assessment. Evidence of engagement of a project arborist is to be submitted to, and approved, by Council.

- e) Tree Protection - Comply with all recommendations, requirements, and management plans contained within the Council approved Arboricultural Impact Assessment Report, prepared by Mark Hartley dated 30 August 2022. Trees to be retained are to be tagged with clearly visible marking tape at a height of approximately 2 metres from ground and numbered with the corresponding number in the Arborist Report.

The key recommendations to be complied with are referred to in the methods and tree protection plans (specifications) in the report.

- f) Tree Protection
- i. Prior to commencement of any work on site, in order to ensure that the three (3) *Eucalyptus microcorys* (Tallowwood Gum) known as Tree N1-N3 which are to be retained are protected during demolition and construction, and the health and structural stability ensured, a Tree Protection Zone (TPZ) shall be established as follows:
- A. In accordance with AS4970-2009 protective fences consisting of chain wire mesh temporary fence panels with a height 1.8m shall be erected outside the drip-line. The fence panels must be securely mounted and braced to prevent movement. The area within the fencing must be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken, and
- B. The protective fences shall consist of para-webbing or chain wire mesh mounted on star pickets or similar metal posts, shall be in place prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction, and
- C. Fencing shall be erected to ensure that the public footway is unobstructed. If there is insufficient space to erect fencing, wrap the trunk with hessian or carpet underlay to a height of 2.5m or to the trees first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails), and
- D. The TPZ is to have a minimum of two signs that include the words "**Tree Protection Zone – Keep Out**". Each sign shall be a minimum size of 60cm x 50cm and the name and contact details of the Project Arborist.
- E. The applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced tree protection zones. Council approval is required prior to commencement of any works
- ii. All TPZ's as well as the entire Council nature strip are a 'No-Go' zone. There shall be no storage of waste bins, materials and equipment, site

residue, site sheds, vehicle access, concrete / chemical mixing/disposal, or washing down of tools and equipment permitted within the TPZ's at any time.

- iii. There shall be no excavation, walls (retaining or otherwise), drainage / OSD, pavement works including footpath and driveway crossover, kerb and gutter, or trenching for utility services within the drip line of trees. Any unavoidable work within the TPZ may only be undertaken with agreement in writing of Council's Tree Management Officer (or Project Arborist).
 - A. Where unavoidable foot access is required in the TPZ, provide timber sheets to minimise soil compaction, spillage or root damage, and
 - B. Where unavoidable excavation is required within the canopy drip line and/or TPZ of any tree, works shall be carried out manually using hand tools to minimise root damage or disturbance, and
 - C. If roots greater than 40mm diameter are encountered Council's Tree Management Officer or the Project Arborist is required to inspect and provide advice prior to works continuing. In such cases, alternative construction methods (e.g., raft slab) may be required.
- iv. The following activities shall not be carried out within any Tree Protection Zone:
 - a. disposal of chemicals and liquids (including concrete and mortar slurry, solvents, paint, fuel, or oil);
 - b. stockpiling, storage or mixing of materials;
 - c. refuelling, parking, storing, washing, and repairing tools, equipment, machinery and vehicles;
 - d. disposal of building materials and waste;
- v. The following activities shall not be carried out within any Tree Protection Zone unless under the supervision of the Project Arborist (AQF Level 5):
 - a. increasing or decreasing soil levels (including cut and fill) ;
 - b. soil cultivation, excavation or trenching;
 - c. placing offices or sheds;
 - d. erection of scaffolding or hoardings; and/or
 - e. any other act that may adversely affect the vitality or structural condition of the tree.

- vi. If adjustment or connection to service utilities is required, all work must be undertaken outside of the drip line / structural root zone so as not to impact or harm existing trees. New overhead service wires shall be located to ensure they are outside of the canopy of any existing trees – canopy pruning will not be permitted. Any unavoidable work within the drip line requires agreement in writing and supervision from Council's Tree Management Officer or the Project Arborist.

If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work.

The above listed requirements and tree protection measures must be complied with at all times until completion of all building and hard landscape construction.

REASON

To minimise adverse impacts on trees, protect local canopy through tree retention and replacement and ensure best practice is implemented.

15. Street Tree Removal and/or Replacement

This condition relates to the removal and replacement of street trees which must be undertaken in accordance with the following:

a) Street Tree Preservation Bond

Prior to the commencement of any work the applicant is to submit payment for a Tree Preservation Bond of \$6,000.00 to ensure protection of the retained trees. The duration of the Bond shall be limited to a period of 12 months after the occupation certificate is issued. At completion of the bond period of twelve months (12 months) the Bond shall be refunded pending an inspection of the tree by council. If a tree is found to be dead, pruned or dying and will not recover the applicant will forfeit all or part of the bond to replace or maintain the tree.

REASON

To minimise adverse impacts on trees, protect local canopy through tree retention and replacement and ensure best practice is implemented.

16. General Terms of Approval

The development shall be carried out in accordance with the requirements of the General Terms of Approval (GTA) outlined below.

Approval Body	Date of GTA
NSW Office of Water (Water NSW)	20/03/2025
Ausgrid	02/08/2023
Sydney Water	08/06/2023
Sydney Airport Corporation Ltd	03/02/2025

A copy of the requirements of the approval Authority is attached to this consent.

REASON

To ensure compliance with General Terms of Approval provided by external authorities.

17. Sydney Airport

The following conditions are imposed by the Sydney Airport Corporation Limited (SACL) in their letter dated 3 February 2025 and must be complied with:

- a) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc., and
- b) Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
- c) Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.
- d) Sydney Airport advises that approval to operate construction equipment (i.e., cranes) should be obtained prior to any commitment to construct.

The approved height of **52.15 metres** Australian Height Datum (AHD) is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

Note: Under Section 186 of the *Airports Act 1996*, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity" and is punishable by a fine of up to 50 penalty units.

For further information on Height Restrictions please contact SACL on 9667 9246.

REASON

To ensure compliance with requirements of Sydney Airports Corporation Limited.

18. Ausgrid

The following conditions are imposed by Ausgrid in their letter and must be complied with:

- a) **Ausgrid Underground Cables are in the vicinity of the development.**

Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways. It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD).

In addition to DBYD the proponent should refer to the following documents to support safety in design and construction:

- SafeWork Australia – Excavation Code of Practice.
- Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables.

The following points should also be taken into consideration.

- Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.
- Should ground anchors be required in the vicinity of Ausgrid underground cables the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable, and,

b) Ausgrid Overhead Powerlines are in the vicinity of the development.

The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.

The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at www.ausgrid.com.au.

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost.

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website:

www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries

For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details:

<https://www.ausgrid.com.au/Connections/Get-connected>

REASON

To ensure compliance with requirements of Ausgrid.

19. Sydney Water

The following conditions are imposed by Sydney Water in their letter dated 8 June 2023 and must be complied with:

a) Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92, and

b) Building Plan Approval

The approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Tap in™ service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

Sydney Water recommends developers apply for Building Plan approval early as in some instances the initial assessment will identify that an Out of Scope Building Plan Approval will be required.

c) Out of Scope Building Plan Approval

Sydney Water will need to undertake a detailed review of building plans:

1. That affect or are likely to affect any of the following:
 - Wastewater pipes larger than 300mm in size
 - Pressure wastewater pipes
 - Drinking water or recycled water pipes
 - Our property boundary
 - An easement in our favour
 - Stormwater infrastructure within 10m of the property boundary.
2. Where the building plan includes:
 - Construction of a retaining wall over, or within the zone of influence of our assets
 - Excavation of a basement or building over, or adjacent to, one of our assets
 - Dewatering – removing water from solid material or soil.

The detailed review is to ensure that:

- our assets will not be damaged during, or because of the construction of the development,
- we can access our assets for operation and maintenance,
- your building will be protected if we need to work on our assets in the future.

The developer will be required to pay Sydney Water for the costs associated with the detailed review.

d) **Tree Planting**

Certain tree species placed in close proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Sydney Water requires that all proposed or removed trees and vegetation included within the proposal adhere to the specifications and requirements within Section 46 of the Sydney Water Act (1994) and Diagram 5 – Planting Trees within our Technical guidelines – Building over and adjacent to pipe assets. Please note these guidelines include more examples of potential activities impacting our assets which may also apply to your development.

If any tree planting proposed breaches our policy, Sydney Water may need to issue an order to remove every tree breaching the act, or directly remove every tree breaching the Act and bill the developer or Council for their removal.

REASON

To ensure compliance with requirements of Sydney Water.

20. Water NSW

The following conditions are imposed by WaterNSW in their letter dated 20/03/2025 and must be complied with:

a) **Dewatering**

- i. GT0115-00001

- Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
- ii. GT0117-00001
A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
 - iii. GT0118-00001
If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waterNSW.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
 - iv. GT0119-00001
All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
 - v. GT0120-00001
The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0m below the natural ground surface.

- vi. GT0122-00001
Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme).
- vii. GT0123-00001
Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.watarnsw.com.au/customer-service/waterlicensing/dewatering
- viii. GT0150-00001
The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site – Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of

proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual.

- ix. GT0151-00001
Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- x. GT0152-00001
This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- xi. GT0155-00001
The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report.
- xii. GT0174-00001
Construction phase monitoring bore requirements GTA:
 - a) Monitoring bores are required to be installed and collecting data prior for at least 3 months prior to submitting a water supply work approval
 - b) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW.
 - c) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW and should be submitted prior to the application for a water supply work approval.
 - d) The monitoring bores should be used to develop a water table map for the site and its near environs.
 - e) The monitoring bores must be protected from construction damage.Advisory note: no approval under the Water Management Act 2000 is required for these monitoring bores provided that they extract less than 3ML/water year.
- xiii. GT0241-00001
A construction certificate can be issued for excavation work in accordance with a valid development consent, however dewatering cannot take place without an Approval being granted by Water NSW for any water supply works required by the development. If the excavation work will or is likely to require dewatering, the applicant must apply and obtain, an approval under the Water Management Act 2000 prior to any dewatering taking place and notify WaterNSW of the programme for the dewatering activity including the commencement and proposed completion dates of the dewatering activity.

Advisory Note: An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.

REASON

To ensure compliance with requirements of Water NSW.

PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions must be completed prior to the issue of the Construction Certificate:

21. Design Amendments

Before the issue of a construction certificate, the certifier must ensure the approved construction certificate plan (and specifications) detail the following required amendments to the approved plans and supporting documentation stamped by Council.

- (a) Conceal drainage pipes within the floor slabs and walls so that they do not appear in the exterior of the building, including balconies and driveway entrances.
- (b) Encase any hot water system / unit in the balconies in a recessed box with the lid / cover designed to be blend into the facades and screened from the public domain.
- (c) Finish the internal entrance area of the car park that is visible from the public domain (delete as appropriate: side walls of the car park in front of the roller door) in a manner that is consistent with the overall façade design.
- (d) All non-landscaped podium areas must be finished with appropriate softening treatment such as decorative pebbles or the like.
- (e) The basement parking levels of the development shall be amended to increase the bicycle parking provision to 56 residential bicycle spaces to comply with the Bayside DCP section 3.5.4.
- (f) The ground floor level shall be revised to include 6 visitor bicycle parking spaces to comply with the Bayside DCP section 3.5.4. The spaces shall be located to not to impact any landscaping.
- (g) Parking space 12 on basement level 2 shall be converted to a residential visitor car space to ensure there is 12 visitor car parking spaces provided in the development. Furthermore, basement level 2 shall be amended to convert

a residential parking space to a residential affordable car parking spaces to ensure there is a total of 6 residential affordable car parking spaces provided. The basement parking levels shall provide for a total car parking allocation of 52 market residential car spaces, 6 affordable residential car spaces and 12 visitor car parking spaces.

Details shall be submitted to the satisfaction of the Principal Certifier prior to the issue of a Construction Certificate.

REASON

To require minor amendments to the approved plans and supporting documentation following assessment of the development.

22. Payment of Fees and Security Deposits

Before the commencement of any works on the site or the issue of a Construction Certificate, the Applicant must make all of the following payments to Council and provide written evidence of these payments to the Certifier:

Soil and Water Management Sign Fee	\$27.00
Section 7.11 Contributions	\$1,060,000.00 – DA-2024/309 (DA-2023/50 was \$920,739.82)
Builders Damage Deposit (Security Deposit)	\$27,450.00
Tree Preservation Bond (Security Deposit)	\$6,000.00

The payments will be used for the cost of:

- making good any damage caused to any Council property (including street trees) as a consequence of carrying out the works to which the consent relates,
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and
- any inspection carried out by Council in connection with the completion of public work or the making good any damage to Council property.

Note: The inspection fee includes Council's fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the *Roads Act 1993*). The amount payable must be in accordance with council's fees and charges at the payment date.

Note: At the completion of the project only security deposits can be refunded, fees and contributions are non-refundable.

REASON

To ensure any damage to public infrastructure is rectified and public works can be completed.

23. Payment of Security Deposits

Before the issue of the relevant Construction Certificate, the Applicant must:

- (a) make payment of \$27,450.00 for a security deposit to the consent authority, and
- (b) if a Principal Certifier is required to be appointed for the development provide the Principal Certifier with written evidence of the payment and the amount paid.

REASON

To ensure any damage to public infrastructure is rectified and public works can be completed.

24. Payment of Fees

Before any site work commences, the following must be paid to Council and written evidence of these payments provided to the Principal Certifier:

- (a) Inspection fees as specified in Council's fees and charges at the payment date.

REASON

To ensure fees are paid for inspections carried out by Council in connection with the completion of public work such as footway construction or stormwater drainage required in connection with the consent or the making good of any damage to Council property.

25. Long Service Levy

Before the issue of the relevant Construction Certificate, the long service levy of \$31,319.10, as calculated at the date of this consent, must be paid to the Long Service Corporation or Council under the *Building and Construction Industry Long Service Payments Act 1986*, section 34, and evidence of payment is to be provided to the Principal Certifier or Council (where a Certifier is not required).

REASON

To ensure the long service levy is paid.

26. Payment of Section 7.11 Contributions

Before the issue of the first Construction Certificate in respect of any building to which this consent relates, a section 7.11 contribution calculated in accordance with the following table must be paid to Council:

Arncliffe and Banksia Local Infrastructure Contribution Plan 2020:

Transport	\$ 327,023.54	AB1
Stormwater Management	\$ 47,307.78	AB2
Open Space	\$ 204,834.21	AB3
Community Services & Facilities	\$ 468,278.63	AB4
Plan Administration	\$ 12,555.84	AB5

A Section 7.11 contribution of **\$1,060,000.00** shall be paid to Council. The contribution is calculated according to the provisions contained within Council's adopted Arncliffe and Banksia Local Infrastructure Contribution Plan 2020. The amount to be paid is to be adjusted at the time of payment, in accordance with the review process contained in the Contributions Plan. The contribution is to be paid prior to the issue of any compliance certificate; subdivision certificate or construction certificate. The contributions will be used towards the provision or improvement of the amenities and services identified below.

A copy of the development contributions plan is available for inspection at Council's Customer Service Centre or on Council's website at www.bayside.nsw.gov.au.

REASON

To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development.

27. Construction Site Management Plan

Before the issue of a Construction Certificate, a construction site management plan must be prepared, and provided to the Principal Certifier. The plan must include the following matters:

- (a) The location and materials for protective fencing and hoardings on the perimeter of the site;
- (b) Provisions for public safety;
- (c) Pedestrian and vehicular site access points and construction activity zones;
- (d) Details of construction traffic management including:
 - i. Proposed truck movements to and from the site;
 - ii. Estimated frequency of truck movements; and
 - iii. Measures to ensure pedestrian safety near the site;
- (e) Details of any bulk earthworks to be carried out;
- (f) The location of site storage areas and sheds;
- (g) The equipment used to carry out all works;
- (h) The location of a garbage container with a tight-fitting lid;
- (i) Dust, noise and vibration control measures;
- (j) The location of temporary toilets;
- (k) The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:
 - i. AS 4970 - Protection of trees on development sites;
 - ii. An applicable Development Control Plan;
 - iii. An arborist's report approved as part of this consent.

A copy of the construction site management plan must be kept on-site at all times while work is being carried out.

REASON

To require details of measures that will protect the public, and the surrounding environment, during site works and construction.

28. Design Verification Statement

Prior to the issue of a Construction Certificate, a statement from a qualified designer (Registered Architect) is to be submitted verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles, in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2021*.

REASON

To ensure compliance with the Environmental Planning and Assessment Regulation 2021.

29. Design Excellence

To ensure design excellence is achieved, as required by clause 6.14 of Rockdale Local Environmental Plan 2011, prior to the issue of any construction certificate entailing any works above basement levels including public domain works, the following must be prepared by the registered architect commissioned for the construction of the project:

- (a) One (1) sample board containing original samples and swatches of all external materials and colours including:
 - (i) Wall and roof cladding, and
 - (ii) Columns located in front of the corner retail tenancy (including vertical elements attached to columns), and
 - (iii) Balustrading, and
 - (iv) Louvres, and
 - (v) Glazing, and
 - (vi) Window edge treatments, and
 - (vii) Paving/surface in front setback areas, and
 - (viii) Driveway, and
 - (ix) Footpaths, and
 - (x) Retaining wall details, and
 - (xi) Roof top garden (including all surface treatments).
- (b) Full coloured elevational details at a minimum scale of 1:10;
- (c) Sections through relevant façade elements, public domain stairs, planterboxes at a minimum scale of 1:10.

The boards, elevations and sections are to be submitted and stamped as approved by the Director City Futures (or delegate) prior to the issue of any Construction Certificate entailing any works above basement levels. The Construction Certificate shall be precisely consistent with these approved materials.

Any modifications to the approved materials under this condition require submission and approval of a S4.55 application.

REASON

To ensure that works are executed in accordance with the approval.

30. Sydney Water Tap-in

Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap inTM online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap inTM online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

REASON

To ensure compliance with Sydney Water requirements.

31. Safer by Design Requirements

To maximise security in and around the development the following shall be incorporated into the development. Details for the following are to be approved by the Principal Certifier prior to the issue of the Construction Certificate, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development:

- (a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas, and
- (b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels, and
- (c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners, and
- (d) Graffiti resistant materials shall be used to ground level external surfaces, and
- (e) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development, and
- (f) The front window of the ground floor tenancy must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy, and

- (g) The ceiling of the basement car park shall be finished in light colour in order to maximise visibility.

REASON

To ensure compliance with the Crime Prevention Through Environmental Design (CPTED) principles.

32. Encroachment of Structures not Permitted

No part of any structure, including gutters and eaves and front fences (including footings), may encroach or overhang any property boundary and/or public footway.

The front fence / boundary fence must not open onto public footway. The access gate is to open inwards onto private property. Details are to be provided on the Construction Certificate plans.

REASON

To ensure all development is contained wholly within the site and minimise impacts on surrounding land.

33. Wind Report

The residential flat development shall be constructed in accordance with the approved Wind Report listed in Condition 1. Details are to be provided on the Construction Certificate plans.

REASON

To ensure that adverse impacts from wind are minimised in accordance with specified performance measures.

34. Adaptable Units and Parking

Access must be provided to and within a minimum of 6 residential units, and between these units and their allocated car parking spaces in accordance with Council's Development Control Plan and Australian Standard 4299: Adaptable housing. As shown on the approved plans, the required adaptable units shall be unit numbers 1.06, 2.05, 2.06, 3.05, 3.06, 4.04, 5.04, 6.04, 7.04, 8.04, 9.04 and 10.03. The units shall be constructed to comply with the requirements of AS 4299.

Details demonstrating compliance shall be submitted to the satisfaction of the Principal Certifier prior to the issue of a Construction Certificate.

Note: Compliance with Council's Development Control Plan does not necessarily guarantee that the development meets the full requirements of the *Disability Discrimination Act 1992*. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the Act are satisfied.

REASON

To ensure adaptable units are provided and designed in accordance with the relevant standards.

35. Adaptable Units

Before the issue of the relevant Construction Certificate, a report prepared by a suitably qualified consultant must be obtained that demonstrates to the Certifier's satisfaction, that any adaptable dwellings specified in the approved plans or documents comply with the provisions of *AS 4299 Adaptable Housing Standards*.

REASON

To ensure adaptable units are designed in accordance with the Australian Standard.

36. Car Parking Details

Before the issue of the relevant Construction Certificate, written evidence prepared by a suitably qualified Engineer must be obtained that demonstrates, to the Certifier satisfaction, the plans for parking facilities comply with the relevant parts of *AS 2890.1 Parking Facilities – Off-Street Carparking* and Section 4.6 of Council's relevant development control plan (in force as at the date of the determination of this consent).

REASON

To ensure parking facilities are designed in accordance with the Australian Standard and Council's DCP.

37. Glazing Reflectivity

The reflectivity index of glazing and finishing materials used on the facades and roof of the building shall not exceed 20%. Details demonstrating compliance with the above requirement shall be submitted to the satisfaction of the Principal Certifier prior to the issue of a Construction Certificate for the relevant stage of works.

REASON

To ensure that adverse reflectivity impacts are minimised.

38. Lighting

All proposed lights shall comply with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting. In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.

REASON

To ensure that adverse impacts from lighting are minimised in accordance with relevant standards.

39. Services in Garbage Room

Hot and cold water supply shall be provided to the garbage room. Services or utility systems shall not be located within the garbage room.

Details demonstrating compliance shall be provided to the satisfaction of the Principal Certifier, prior to the issue of a Construction Certificate.

REASON

To ensure the proper storage and management of waste and minimise adverse impacts to human health.

40. Utilities and Services

Before the issue of the relevant Construction Certificate, written evidence of the following service provider requirements must be provided to the Principal Certifier.

- (a) a letter from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity.
- (b) a response from Sydney Water as to whether the plans accompanying the application for a construction certificate would affect any Sydney infrastructure, and whether further requirements need to be met.
- (c) other relevant utilities or services – that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, the changes that are required to make the development satisfactory to them.

REASON

To ensure relevant utility and service providers' requirements are provided to the certifier.

41. Inter-Tenancy Acoustic Attenuation

The development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development:

- (a) Three (3) Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted, and
- (b) Four (4) Star for timber flooring in any area, and
- (c) Five (5) Star for carpet in any area.

The development shall comply with the Building Code of Australia requirement for walls dividing occupancies.

A report shall be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report.

A suitably qualified Acoustic Engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate for the relevant stage of works.

REASON

To minimise adverse amenity impacts to residents within the building.

42. Aircraft Noise – Compliance with Submitted Report

Prior to issue of the Construction Certificate, the measures required in the acoustical assessment report prepared by Acoustic Logic dated 8 June 2024 shall be included in the construction drawings and in accordance with the provisions of AS 2021 - 2015: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction.

The work detailed in the report includes:

- a) Appropriate acoustic glazing to stated windows and doors, and
- b) Detailed roof and ceiling construction, and
- c) Wall and ceiling corner details, and
- d) External door specification.
- e) Acoustically treated mechanical ventilation

REASON

To minimise adverse amenity impacts to residents within the building.

43. Hazardous Material Audit and Work Plan

Prior to the release of a Construction Certificate for the demolition of buildings, Hazardous Materials Audit (HMA) shall be carried out to ensure that any hazardous materials that may have been used within the structural components of buildings and infrastructure are adequately addressed to protect site personnel and the public from the risk of exposure. This shall be undertaken by an appropriately qualified consultant and shall be submitted to Council and the Principal Certifier.

Should any hazardous materials be identified a Work Management Plan shall be submitted to Council in accordance with AS2601-2001 – Demolition of Buildings. The report shall contain details regarding the type and location of hazardous material and the proposed methods of containment and disposal.

REASON

To avoid and/or minimise potential risks associated with hazardous or offensive industries.

44. Erosion and Sediment Control Plan

Before the issue of a Construction Certificate, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:

- (a) Council's relevant Development Control Plan,
- (b) the guidelines set out in the NSW Department of Housing Manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
- (c) the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

REASON

To ensure no substance other than rainwater enters the stormwater system and waterways.

45. Dilapidation Report

Before any site work commences, a Dilapidation Report must be prepared by a suitably qualified Engineer detailing the structural condition of adjoining buildings, structures or works and public land, to the satisfaction of the Principal Certifier.

Where access has not been granted to any adjoining properties to prepare the Dilapidation Report, the Report must be based on a survey of what can be observed externally and demonstrate, in writing, to the satisfaction of the Principal Certifier, that all reasonable steps were taken to obtain access to the adjoining properties.

REASON

To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the Dilapidation Report.

46. Waste Management Plan Requirements

Before the issue of a Construction Certificate, a Waste Management Plan for the development must be prepared and provided to the Principal Certifier. The plan must be prepared:

- (a) in accordance with:
 - i) the Environmental Protection Authority's Waste Classification Guidelines as in force from time to time, and
 - ii) a development control plan that provides for waste management that applies to the land on which the work or the clearing of vegetation is carried out, and
- (b) include the following information:
 - i) the contact details of the person removing the waste,
 - ii) an estimate of the type and quantity of waste,
 - iii) whether waste is expected to be reused, recycled or sent to landfill,
 - iv) the address of the disposal location for waste.

A copy of the Waste Management Plan must be kept on-site at all times while work approved under the development consent is being carried out.

REASON

To ensure resource recovery is promoted and local amenity protected during construction.

47. Property Address Allocation

Prior to the issue of a Construction Certificate for the development an application for street addresses (Property Address Allocation) and associated fee shall be submitted to Council for each individual dwelling within the development. All new

addresses will be allocated in accordance with Section 5.2 of the NSW Address Policy.

The form is available for download at:

<https://www.bayside.nsw.gov.au/services/development-construction/building-or-altering-property/commonly-used-forms>

Derivation and production of address data components is governed by the NSW Addressing User Manual to ensure consistency of application.

REASON

To ensure property addresses are allocated in accordance with relevant standards.

48. Provision of Detailed Plans for Construction Certificate Application

Before the issue of a Construction Certificate, detailed plans must be prepared by a suitably qualified person and provided to the Certifier for approval that are consistent with the plans and documentation approved under this consent. Detailed plans must also show the following:

- (a) Car parking facilities
- (b) Acoustic Report
- (c) Disability Access Plan
- (d) Pedestrian access
- (e) Signage location and structures
- (f) Mechanical ventilation

REASON

To ensure that detailed Construction Certificate plans are consistent with the approved plans and supporting documentation.

49. Retaining Walls Over 600mm

Retaining walls over 600mm in height shall be designed and specified by a structural engineer registered with the National Engineering Register (NER).

REASON

To ensure the structural adequacy of new retaining walls.

50. Detailed Design Stormwater Management Plan

Prior to the issue of any Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to the Bayside Council Director of City Futures (or delegate) for assessment and approval. Engineering design certification and drainage design calculations are to be submitted with the plans. Bayside Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the site, including the final discharge/end connection point, must comply with Bayside Technical Specification Stormwater Management.

The detailed drainage design plans shall incorporate the provisions made in the stormwater concept plans prepared by MANCE ARRAJ project/job number 2993-DA along with the revisions detailed below:

- a) The basement must be designed as a fully “tanked” structure, and this must be clearly shown on the plans. If subsoil drainage is permitted to be provided around the subsurface structure, the subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure but must not be connected to the internal drainage system. No groundwater is permitted to enter the subsurface structures and, no pump-out system is permitted to be used to drain and discharge groundwater from the subsurface structures. The pump-out can only be utilized to dispose stormwater runoff that may enter the basement carpark from driveway access to the basement.
- b) The MUSIC modelling and WSUD design shall be revised to ensure the pollution reduction targets comply with Bayside Technical Specification section 7.1.1.
- c) The design of the drainage extension in Charles Street shall be revised to ensure there is no impact to existing street trees
- d) The plans shall be amended to include the provision of a minimum 10,000L rainwater tank connected to all ground floor toilet flushing, the cold water tap that supplies the clothes washing machines on the ground floor, the car wash bay, and the landscape irrigation system for non-potable stormwater re-use. Only non-trafficable roof drainage shall be directed to the rainwater tank. Overflow from the rainwater tank to be directed to the OSD.

REASON

To ensure compliance with Council’s Stormwater Management Technical Guidelines / Specifications.

51. Tanking and Waterproofing Basement Intercepting Groundwater Table

Prior to the issue of any Construction Certificate, all subsurface structures shall be designed with a waterproof retention system (i.e., full structural tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and “flotation” (buoyancy) effects. If subsoil drainage is permitted to be provided around the subsurface structure, the subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure but must not be connected to the internal drainage system. No groundwater is permitted to enter the subsurface structures and, no pump-out system is permitted to be used to drain and discharge groundwater from the subsurface structures. The design of subsurface structure, tanking, waterproofing and subsoil drainage shall be undertaken and certified by Engineer(s) registered with the National Engineering Register (NER). Design details, construction specifications and engineering design certification shall be included in the documentation accompanying the Construction Certificate.

REASON

To ensure that subsurface structures are designed to prevent ingress of groundwater.

52. Detailed Parking Facility Design Requirements and Certification

Prior to the issue of any Construction Certificate, the construction certificate plans and supporting documentation shall demonstrate compliance with the following:

- a) Compliance with AS2890 Car, Bicycle and Motorcycle Parking:
 - i. The parking facility (including parking spaces, ramps, aisles, vehicular crossing etc.) must comply in full with AS/NZS2890.1:2004. The longitudinal profile(s) of the access driveway and any ramps within the parking facilities must comply with the Ground Clearance, Gradient (%) and Length requirements of the 2890 Australian Standards Series, and
 - ii. All vehicles are to enter and exit the site in a forward direction, and
 - iii. The minimum number of accessible car parking spaces shall be in accordance with the relevant disability legislation. The design and construction of accessible car parking spaces shall be in accordance with AS2890.6, and
 - iv. The gate for the basement shall be located to permit the queuing of two (2) vehicles when waiting to enter the basement garage, and
 - v. Pedestrian sightlines for vehicles existing the site are to comply with AS2890.1, and
 - vi. Convex mirrors shall be provided at blind corners within, and leading to, the car parking levels to provide increased sight distance for vehicles, and
 - vii. The car wash bay shall be minimum 3.5m wide, and
 - viii. A minimum of 56 residential bicycle parking spaces (security level A or B from table 1.1 of AS2890.3:2015), 6 residential visitor bicycle spaces (security level C from table 1.1 of AS2890.3:2015) and 4 motorcycle parking spaces must be provided as part of the development and designed in accordance with AS2890.3:2015 and AS/NZS2890.1:2004 respectively, and
- b) Compliance with AS2890.2 Commercial (Service) Vehicle Parking:
 - i. Loading and unloading within the site shall be designed and be restricted to commercial vehicles not exceeding the size and mass description of the SRV from AS2890.2:2018. Commercial vehicles greater in size and mass than the SRV are not permitted to enter the site, and
 - ii. The design of the parking facility (including driveways/access ramps/vehicular crossings etc.) shall conform with Australian Standards AS2890.2:2018 along the travel path of the service vehicles, and
 - iii. All service vehicles shall enter the property front in front out, and
 - iv. Swept path analysis shall be provided for manoeuvring of SRV commercial vehicles, depicting a forward entry and forward exit manoeuvre to/from the site via the loading dock(s) proposed within the development, and
 - v. A longitudinal section plotting headroom clearance along the travel path of the service vehicle(s) is to be provided. It must be demonstrated that a safe headroom clearance of 3.5m is achieved along the entire travel path, parking and manoeuvring areas of the SRV within the development, and

- vi. All waste collection must be undertaken on-site, no bins/waste are permitted to be presented to the street for collection.
- vii. Any roller shutter on the driveway entry is to be designed to ensure a minimum of 3.5m of headroom clearance is provided.

The design of the entire car parking facility is to be certified by a Civil Engineer registered with the National Engineering Register (NER) as being strictly in accordance with the abovementioned requirements and the Australian Standard 2890 parking facilities series.

REASON

To ensure compliance with the relevant Australian Standard.

53. Traffic Signal System

Prior to the issue of the Construction Certificate, a traffic light signal and sensor system shall be provided for the development and therefore, the following is required to be submitted to the Principal Certifier:

- a) A traffic signal management system (including traffic lights and vehicular sensors) to manage conflicting two-way movements on the adjacent to the one-way ramps shall be designed and certified by a Civil Engineer for implementation within the parking facility. Traffic lights are provided at both the top and bottom of each ramp in locations that are readily visible and prompt vehicles to stop where and when needed.
- b) Line marking and signage must be provided at both the entry to the basement and within the each level of the basement parking facility to clearly delineate waiting bay areas that provide for passing of vehicles entering/exiting the car park via the ramp and traversing through the parking facility. The function of these waiting areas must be demonstrated using swept paths for a B85 passing a B99 vehicle with appropriate clearances as per AS/NZS 2890.1.
- c) The traffic signals shall operate with the following operational mode:
 - Automatically revert to and dwell on green for incoming.
 - Outgoing driver activates sensor.
 - Signals change to red for incoming and green for outgoing.
 - After a pre-set clearance time signals revert to red for outgoing traffic and green for incoming traffic.

REASON

To minimise impacts associated with vehicle movements into and out of the site.

54. Low Level Driveway Prevent Inflow of Water

The low-level driveway must be designed to prevent inflow of water from the road reserve. The assessment of flows and design of prevention measures shall be in accordance with the requirements of Bayside Council.

A civil engineer shall be engaged to assess gutter flows as follows:

- i) The 1 in 100 year flow discharge is to be determined using the Rational Method;

- ii) The depth of flow is to be determined using Mannings Equation, HEC-RAS or standard nomographs where applicable;
- iii) The driveway crest level within the property is to be at least 100mm above the 1 in 100 year flow level and confirmed on the plans.

Details shall be submitted to Bayside Council Director of City Futures (or delegate) for assessment and approval. The approved documents shall be included in the documentation presented with the relevant Construction Certificate application.

REASON

To protect property and structures from water ingress.

55. Provision of Car Wash Bay

The Construction Certificate plans must show the provision of 1 x 3.5m wide car wash bay. A visitor car space can be utilised for this purpose. A cold-water tap (typically connected to the rainwater tank) and waterproof power outlet shall be provided along with a sign fixed to the wall saying, 'Visitor Car Space and Car Wash Bay'. The car wash bay must be bunded in accordance with AS1940 and AS/NZS 4452 with direct connection to the sewer in accordance with a Sydney Water trade waste agreement.

REASON

To ensure that a carwash bay is provided in accordance with Council requirements and relevant standards.

56. Structural Certificate Basement Structure Adjacent to Public Road

Prior to the issue of the Construction Certificate a certificate from a Structural Engineer, registered with National Engineering Register (NER), shall be submitted to Bayside Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.

REASON

To minimise risk to personal safety and property.

57. Use of Neighbouring Properties and Roadways for Support

Prior to the issue of the Construction Certificate, if neighbouring properties or roadway are to be utilised for excavation support, the legal rights of any adjoining properties must be respected including for permanent and temporary excavation supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for excavation support or other material in adjacent lands must be lodged to the Principal Certifier.

Where excavation support materials are proposed to be used in public land, an application must be made to Council for approval under Section 138 of the *Roads Act 1993*, via a permit application. The submission would need to be supported by an engineering report prepared by an Engineer registered with the National Engineering Register (NER), with supporting details addressing the following issues:

- a) Demonstrate that any structures will not adversely affect public infrastructure,

and the proposed supports within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.

The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.

REASON

To ensure landowner's legal rights are protected and that damage to adjoining land is minimised.

58. Geotechnical Certification

Prior to the issue of any Construction Certificate, a Geotechnical Engineer must:

- a) Review and ensure the appropriate construction methodology, parameters, and recommendations in the geotechnical report prepared by JC Geotechnics PTY LTD, document ID GR1389.1J, rev 04, dated 20/09/2024, have been implemented and relied upon during the preparation of the Construction Certificate plans and documentation.
- b) Provide detailed recommendations to allow the satisfactory implementation of the works.
 - i. The appropriate means of any excavation/shoring is to be determined and detailed considering the proximity to adjacent property and structures.
 - ii. Potential vibration caused by the method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be discussed and ameliorated.
 - iii. Review and certify the proposed method to temporarily and permanently support any excavation adjacent to adjoining property, structures, and road reserve if nearby (full support to be provided within the subject site).
 - iv. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.
- c) Prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure.
- d) Certify that the construction certificate plans and supporting documentation are satisfactory from a geotechnical perspective.
- e) Inspect the works as they progress at frequencies determined by the geotechnical engineer (where necessary).

The professional recommendations shall be implemented in full during the relevant stages of excavation and construction.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in

damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.

REASON

To ensure that structural designs are adequate and that damage to adjoining land is minimised.

59. Frontage Works Application

Prior to the issue of any Construction Certificate, an application for Frontage Works (Public Domain Construction – Frontage / Civil Works Application) shall be made to Bayside Council's Customer Service Centre for assessment of all required works within the road reserve. A fee is payable to Bayside Council in accordance with Council's adopted fees and charges.

Prior to the commencement of the public domain works, a Public Domain Frontage Design package must be prepared by suitably qualified professionals for all frontage works that are required to be constructed within the public domain that are subject to assessment and approval pursuant to Section 138 of the *Roads Act 1993*. Public domain frontage works can include, but not be limited to, civil, drainage, landscaping, undergrounding of services, lighting, traffic signage, line marking, parking, and traffic devices to address and satisfy relevant development consent conditions. All frontage works shall be in accordance with Bayside Council technical manuals, specifications, master plans, town centre plans, Australian Standards, and standard design drawings.

A public domain performance bond is to be provided to Bayside Council prior to the issue of the Final Occupation Certificate. The performance bond is calculated by Bayside Council as part of the frontage works process as per Bayside Council's adopted fees and charges. The performance bond will be kept for a period of 12 months after the completion of all external works and the issuing of a Final Occupation Certificate (defects liability/street tree maintenance period). The bond may be applied by Bayside Council to rectify defective/non-conforming public domain works and the establishment and maintenance of landscaping & street trees. Bayside Council is entitled to recover any monies expended more than the bond amount in undertaking such works.

REASON

To ensure that public domain works are designed and constructed in accordance with relevant requirements and standards.

60. Equal Access to Premises

Before the issue of a Construction Certificate, plans which demonstrate that adequate access to the premises will be provided for persons with disabilities in accordance with the *Commonwealth Disability (Access to Premises – Buildings) Standards 2010*. These plans must be submitted to the Certifier.

REASON

To ensure safe and easy access to the premises for people with a disability.

61. Undergrounding of Overhead Services and Installation of Lighting

All overhead cables, including electricity and telecommunication cables, along the entire length of all frontages of the development site must be relocated underground as part of the development. The Ausgrid lighting and power poles will need to be decommissioned and new underground supplied lighting columns shall be constructed (where necessary) satisfying the applicable requirements. Ausgrid's approval for the works must be obtained. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Bayside Council prior to the commencement of public domain works. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables. These works must be completed to the satisfaction of Bayside Council prior to the issue of the Final Occupation Certificate.

Where the road reserve is congested with underground utility services and/or street trees, the person acting on the consent must design the undergrounding works around the congestion to the requirements of Ausgrid and Bayside Councils Landscape Architect/Arborist.

If further works are required beyond the frontages of the development site (e.g. across a road) to support the required undergrounding works, these works must also be carried out at no cost or expense to Bayside Council.

REASON

To improve the public domain in accordance with Council's Development Control Plan.

62. Waste Storage

The plans shall include details of the waste storage area. The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot / building in accordance with the approved plans.

The waste storage area shall be large enough to accommodate the required number of bins for the development and located in an area to suitably facilitate servicing on waste collection day.

The path to the bin room is to be at least 1.0 metres wide and kept clear and unobstructed at all times.

63. Residential Waste

The development will require the provision of the following waste and recycling facilities:

- a) Domestic Waste - 1 x 120 litre mobile bins per unit / dwelling, or total of 13 x 240 litre mobile bin. Usually provided as a 240 litre or 660 litre bin using this ratio, and,
- b) Domestic Recycling - 1 x 240 litre mobile bin per 3 units / dwellings, or total of 13 x 240 litre mobile bin, and
- c) Green Waste - 1 to 2 x 240 litre mobile bins per unit block, and.
- d) Bulk Waste Storage Area - Minimum 10m², and

OR

Larger 1,100 litre mobile bins may be used as an alternative, but an equivalent amount of space will need to be provided. It is noted that the applicant intends to provide 13 x 240 litre mobile bins for domestic waste and 13 x 240 litre mobile bins for domestic recycling. These are considered to be adequate provided they are serviced in accordance with Council's current servicing requirements.

REASON

To manage waste in accordance with Council's Waste Management Technical Specifications.

64. Sustainability

Prior to the issue of the relevant Construction Certificate, the applicant is to demonstrate the use of the following sustainability measures within the development:

- a) Provision of photovoltaic cell systems on the rooftops. Detailed design for the photovoltaic cells systems is to be provided, the provision of photovoltaic cells is to be at a rate that maximises the coverage of available non-trafficable space on the rooftop. A storage battery is to be provided where possible. This solar power shall be utilised in communal areas and other suitable areas within the development to reduce the developments demand for electricity from the grid.
- b) Provision of a 10,000L rainwater tank connected to all ground floor toilet flushing, the cold water tap that supplies the clothes washing machines on the ground floor, the car wash bay, and the landscape irrigation system for non-potable stormwater re-use.
- c) Sensor controlled and zoned internal lighting within the building's car park and common areas.
- d) Use of admixtures in concrete to minimise cement and reduce embodied carbon.
- e) Separate circuiting for temporary power to minimal stair and corridor lighting.
- f) Use of LEDs and other low energy flicker free lighting resources.
- g) Provision for EV charging in accordance with the below requirements;
 - i. All residential car parking spaces must be 'EV-Ready'. An 'EV-Ready' car space requires the provision of a backbone cable tray and a dedicated spare 15A circuit within an EV Distribution Board enabling future installation of a smart EV charger and cabling to the EV Distribution Board.
 - ii. Provide EV Distribution Boards of sufficient size to allow connection of all 'EV-Ready' car spaces.
 - iii. Locate EV Distribution board(s) so that no future 'EV-Ready' car space will require a cable run greater than 55m from the parking bay to an EV distribution board and, ensure that no cables will obstruct vehicular circulation aisles. Development shall provide cable trays, electrical

cabinets, and conduits sufficient to accommodate the electric circuitry to each 'EV-Ready' and 'EV Equipped' car space.

- iv. EV Distribution Boards are to be dedicated to EV charging that is capable of supplying not less than 50% of EV connections at full power (full power being each individual connection being provided with not less than 2kW power and preferably 7kW power) at any one time during off-peak periods, to minimize impacts to maximum demand loads. To deliver this, an EV Load Management System and an active suitably sized connection to the main switchboard is required.
- v. EV Load Management System is to be capable of:
 - Reading real time current and energy from the EV chargers under management via ethernet connection;
 - Determining, based on known installation parameters and real time data, the appropriate behaviour of each EV charger to minimise building peak power demand whilst ensuring electric vehicles connected are fully recharged;
 - Scale for residents to engage an EV Load Management provider to provide additional smart chargers to residential car spots over time.
 - Ensuring each multi-unit residential 'EV-Ready' car parking spaces be metered separately to their individual account as part of the 'EV-Ready' system.

The above measures shall be implemented on site prior to the issue of the Final Occupation Certificate.

REASON

To protect and allow the interpretation of the significance of items of environmental heritage.

65. Detailed Landscape Plan

All Construction Certificate documentation shall depict the TPZ's of all trees to be retained as per arborist report prepared by Arborist Network -mark Hartley- dated 13th April 2024. The trees to be retained are the following: N1, N2, and N3. AS4970-2009 section 3 requires a Tree Protection Zone (TPZ) setback of 2.5 metres (m) from centre of trunk (COT) of each tree to be retained.

66. Construction Certificate Architectural Drawings

Prior the issue of the Construction Certificate, amended architectural plans must be submitted to, and approved by, the Director City Futures (or delegate) of Bayside Council.

The architectural plan shall include, but not be limited to, the following modifications:

- a) Areas available with deep soil shall be prioritised for planting.

- b) Decking areas shall be suspended from the natural ground level to allow permeable area for roots of large trees to develop. Provide details of all structures that support proposed decks.
- c) Structures in ground levels shall be minimised to maximise the deep root planting area. Peripheric paths shall be located above basement structures where design allows, to maximise the areas of deep soil to be dedicated to trees.
- d) Front landscape setback shall be of communal ownership to be dedicated to trees and understorey. Soil levels shall match finished levels in the public domain to ensure lateral root development. No retaining walls, or other structures will be located within the front setback.
- e) Proposed architectural and landscape design shall deliver passive surveillance.
- f) Planters above structures facing the external façades shall be designed to provide the greenery to the streetscape and neighbouring.
- g) Enclosure of all service structures along the front setback shall be of minimum size possible. Finishes and materials shall be selected to blend with the landscape setting.
- h) Provide details of all soil depths and top of walls of planting areas above structures.

67. Detailed Landscape Plan

Prior the issue of the Construction Certificate, amended landscape plans must be submitted to, and approved by, the Director City Futures (or delegate) of Bayside Council.

The amended plans shall be generally in accordance with the approved Landscape Plan listed in Condition 1 and must comprise detailed landscape construction documentation (plans and specifications).

The detailed plan shall include, but not be limited to, the following:

- a) A planting plan showing all plant locations/groupings, quantities and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
- b) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large trees.
- c) Interface with public domain. All planting proposal along site frontages shall follow CPTED principles. Proposed architectural and landscape design shall deliver passive surveillance.
- d) Required services shall not negatively affect the public areas. Provide details of all services provided along the interface with the public domain, including fire Hydro boosters, substations, gas meters and other.

- e) A dense foliage buffer planting shall be provided along all sides of the development site. Setbacks including front setback shall augment and maximise the number and size of canopy trees.
- f) Frontage to Charles Street shall include at least 5 large canopy trees capable to reach a minimum mature height of 12 metres in local conditions.
- g) Trees shall be planted in the following pot sizes:
 - i) All trees in the public domain, in the through site link or in ground level with interface with the public domain shall be planted at minimum 200 litres pot size.
 - ii) At least two feature trees in the deep soil landscape rear setback of the site (where deep soil is available) shall be planted in super advanced form, minimum 1,000 litres pot size as per the DRP comments.
 - iii) All other trees proposed within the site, including above structures, shall be planted at minimum 100 litres.
- h) Proposed tree planting in deep soil areas shall prioritise native trees, as per Council's tree planting requirements. Only 2 non-native trees may be included as a feature element on deep soil. Deciduous trees may be included where sun access is required in living areas, or as a feature element, if enough native trees are proposed in the overall proposal.
- i) All deep soil areas of communal ownership shall prioritise canopy trees.
- j) Site setbacks shall maximise the inclusion of large canopy trees, and deliver a green buffer, with a mix of very large, large and medium trees. Very large trees shall be located where aerial space and deep soil areas are available. All trees shall be planted in suitable tree pit sizes free of structures.
- k) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape handworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictions, tree pits, tree grates, tree guards, tree pit treat. Areas of paving, schedule of materials, edge treatments, tactile and sectional construction details.
- l) Include climbers to pergolas to ensure shade in summer months.
- m) Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, bins, bollards. Location to be clearly identified on plan. Provide sectional construction details and elevations.
- n) Conflict between landscaped beds, existing/proposed trees or landscaped areas and underground utilities (including stormwater structures) are to be avoided. Where there is a conflict, this shall be resolved with Bayside Council.
- o) Landscape Maintenance Schedule to cover a 12 month period to provide a guide to the landowner or occupier on how to best maintain the constructed landscaped areas; and include the following information: shrub pruning/trimming (frequency, plant requirements); Fertilising and pest control (soil testing, types, rate, frequency); Mulching, weeding and soil improvement (frequency, materials); Irrigation (checks, adjustments); tree maintenance (fertilising, mulching, tree stakes adjustments, special tree requirements); Maintenance of hard landscape elements (paving, edges, walls, pergolas, seats, and planter box walls); and planter boxes/roof gardens/green wall (specialised maintenance requirements).

REASON

To ensure compliance with landscape requirements from relevant policies.

68. General Landscape Conditions

- a) New street trees shall be maintained by the Applicant / Owner / Strata Corporation for a period of twelve (12) months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter, biannual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties; to sustain adequate growth and health. Maintenance does not include trimming or pruning of the trees under any circumstances.
- b) Landscaped areas and deep soil zones as depicted in the approved plans are not to be reduced in size and shall be provided with soft landscape treatment. Built in planter boxes approved above slab structures as indicated in approved plans are not to be replaced with plant pots.
- c) Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
 - i) Soil depths must be in accordance with Council's DCP and associated Technical Specifications. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - ii) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - iii) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil
 - iv) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
 - v) Planter boxes must be an external finish that is consistent with the character of the colour schemes and finishes of the building (e.g. with a suitable paint, render or tile to match the character of the approved building).
 - vi) All planter boxes shall be provided with a fully automated drip irrigation system.
 - vii) All planter boxes shall have the required depth to sustain the proposed planting, as detailed below:

- (1) Trees over 8 meters: Minimum soil depth 1.3 metre,
 - (2) Medium trees (8 metre canopy diameter at maturity): Minimum soil depth one (1) metre,
 - (3) Small trees (4 metre canopy diameter at maturity): Minimum soil depth 800mm.
 - (4) Shrubs: Minimum soil depths 500-600mm.
 - (5) Groundcover: Minimum soil depths 300-450mm.
- d) Irrigation. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards and be maintained in effective working order at all times.
- e) Planters as approved in landscape plan are not to be reduced in size or soil volumes or replace with individual pots.
- f) All utility services (including all telecommunication, high and low voltage power lines) are to be placed underground along the entire development site frontages as part of the development prior to occupation. The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site.

REASON

To ensure compliance with landscape requirements from relevant policies.

69. Landscape Frontage Works Application

Prior to the issue of any Construction Certificate, the applicant must submit a Frontage Works Application (Public Domain Construction – Frontage / Civil Works Application) to Bayside Council. Prior to the commencement of public domain works, a public domain landscape improvements plan shall be submitted to Bayside Council for assessment and approval. The plans shall be undertaken by a suitably experienced Landscape Architect and shall include, but not be limited to, new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping and irrigation. The landscape plan must indicate locations of lighting poles, underground services, stormwater infrastructure etc. The design shall be in accordance with Council's City Identity Program Arncliffe and Banksia Public Domain Plan and Technical Manual, Landscape DCP and any other Council specification or requirement. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan.

Note: Only one frontage works application needs to be submitted for the development consent.

REASON

To ensure compliance with landscape requirements from relevant policies.

PRIOR TO THE COMMENCEMENT OF ANY WORK (including demolition and excavation)

The following conditions must be completed prior to the commencement of works:

70. Soil Stockpile Area

A sufficient area shall be provided onsite to enable separate stockpiling and treatment of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to commencement of works.

This plan shall incorporate and reference the construction environmental management plan (CEMP) and address site limitations.

REASON

To minimise adverse impacts on surrounding properties and the environment.

71. Erosion and Sediment Controls in Place

Before any site work commences, the Principal Certifier, must be satisfied the erosion and sediment controls in the Erosion and Sediment Control Plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with the *NSW Department of Housing Manual 'Managing Urban Stormwater: Soils and Construction Certificate'* (the Blue Book) (as amended from time to time).

REASON

To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

72. Tree Protection Measures

Before any site work commences, the Principal Certifier, or Council where a principal certifier is not required, must be satisfied the measures for tree protection detailed in the construction Site Management Plan are in place.

REASON

To protect and retain existing trees.

73. Signs on site

A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:

- a) showing the name, address and telephone number of the Principal Certifier for the work, and

- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside work hours, and
- c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

Note: This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

REASON

Prescribed condition EP&A Regulation, Section 70 (2) and (3).

74. Compliance with Home Building Act

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

REASON

Prescribed condition EP&A Regulation, Section 69(2).

75. Home Building Act requirements

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information –

- a) In the case of work for which a principal contractor is required to be appointed:
 - i. the name and licence number of the principal contractor; and
 - ii. the name of the insurer by which the work is insured under Part 6 of that Act;
- b) In the case of work to be done by an owner-builder:
 - i. the name of the owner-builder; and
 - ii. if the owner-builder is required to hold an owner-builder permit under the Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

REASON

Prescribed condition EP&A Regulation, Section 71(1), (2) and (3).

76. Notice regarding Dilapidation Report

Before the commencement of any site or building work, the Principal Certifier must ensure the adjoining building owners is provided with a copy of the Dilapidation Report for their properties no less than 7 days before the commencement of any site or building works and provide a copy of the report to Council at the same time.

REASON

To advise neighbours and Council of any Dilapidation Report.

77. Demolition Management Plan

Before demolition work commences, a demolition management plan must be prepared by a suitably qualified person.

The demolition management plan must be prepared in accordance with *Australian Standard 2601 – the Demolition of Structures*, the *Code of Practice – Demolition Work*, Rockdale Development Control Plan 2011 and must include the following matters:

- (a) The proposed demolition methods.
- (b) The materials for and location of protective fencing and any hoardings to the perimeter of the site.
- (c) Details on the provision of safe access to and from the site during demolition work, including pedestrian and vehicular site access points and construction activity zones.
- (d) Details of construction traffic management, including proposed truck movements to and from the site, estimated frequency of those movements, and compliance with *AS 1742.3 Traffic Control for Works on Roads* and parking of vehicles.
- (e) Protective measures for on-site tree preservation and trees in adjoining public domain (if applicable) (including in accordance with *AS 4970-2009 Protection of Trees on Development Sites* and Rockdale Development Control Plan 2011).
- (f) Erosion and sediment control measures which are to be implemented during demolition and methods to prevent material being tracked off the site onto surrounding roadways.
- (g) Dust, noise and vibration control measures, in accordance with any Noise and Vibration Control Plan approved under this consent.
- (h) Details of the equipment that is to be used to carry out demolition work and the method of loading and unloading excavation and other machines.
- (i) Details of any bulk earthworks to be carried out.
- (j) Details of re-use and disposal of demolition waste material in accordance with the Rockdale Development Control Plan 2011.

- (k) Location of any reusable demolition waste materials to be stored on-site (pending future use).
- (l) Location and type of temporary toilets on-site.
- (m) A garbage container with a tight-fitting lid.

REASON

To provide details of measures for the safe and appropriate disposal of demolition waste and the protection of the public and surrounding environment during the carrying out of demolition works on the site.

78. Disconnection of Services before Demolition Work

Before demolition work commences, all services, such as water, telecommunications, gas, electricity and sewerage, must be disconnected in accordance with the relevant authority's requirements.

REASON

To protect life, infrastructure and services.

79. Notice of Commencement for Demolition

At least one week before demolition work commences, written notice must be provided to Council and the occupiers of neighbouring premises of the work commencing. The notice must include:

- (a) Name;
- (b) Address;
- (c) Contact telephone number;
- (d) Licence type and license number of any demolition waste removal contractor and, if applicable, asbestos removal contractor;
- (e) The contact telephone number of Council; and
- (f) The contact telephone number of SafeWork NSW (PH 4921 2900).

REASON

To advise neighbours about the commencement of demolition work and provide contact details for enquiries.

80. Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible

alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event. Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional Engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land, the professional engineer, Principal Contractor and any Sub-Contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

REASON

To protect the amenity of the neighbourhood and the structural integrity of nearby developments.

81. Dilapidation Report - Public Domain - Pre-Construction

Prior to the commencement of any work, a professional engineer specialising in civil, structural, or geotechnical engineering shall prepare a Dilapidation Report detailing the current condition of Bayside Council's infrastructure adjoining, and within 50m of, the development site. This includes the condition of the road reserve (including footpath, nature strip, landscaping, trees, kerb and gutter, pits, pipes, traffic devices, signs, retaining walls, driveways, and road pavement) and any other adjacent Bayside Council properties.

Photographs are to be in colour, digital, annotated and date stamped. The full name, accreditation, professional registration, and signature of the professional engineer is to be detailed. The report is to be supplied in an electronic format to the Principal Certifier and Bayside Council.

The liability for any damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition, will be borne by the Applicant. The Applicant shall bear the cost of all restoration works to Council's property damaged by the Applicant during this development.

REASON

To advise Council of, and provide Council with, the required dilapidation report.

82. Dilapidation Report – Private Land

A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all adjoining premises, a photographic survey, and including buildings, foundations, and structures likely to be affected by the excavation as determined by the consulting engineer. This shall include, but not be limited to, the following properties:

- a) 116 Princes Highway ARNCLIFFE NSW 2205
- b) 7 Charles Street ARNCLIFFE NSW 2205
- c) 130A Princes Highway ARNCLIFFE NSW 2205

The report shall be prepared at the expense of the applicant and a copy of the Dilapidation Survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Principal Certifier prior to commencement of any works. The insurance cover shall be a minimum of \$10 million.

A copy of the Pre-Construction Dilapidation Report is to be provided to the adjoining properties (subject of the Dilapidation Report), a minimum of five (5) working days prior to the commencement of work. Evidence confirming that a copy of the Dilapidation Report was delivered to the adjoining properties must be provided to the PCA.

Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00 am and 6.00 pm.

REASON

To establish and document the structural condition of adjoining properties for comparison as building work progresses and is completed.

83. Utility Services Adjustments

The approved elements including driveways, stormwater connections, (etc.) prevail over the location of existing utility services and power poles. All services shall be adjusted at the Applicants cost to suit the construction of approved design elements. Applicants must seek approval from the relevant public utility, state authority or service provider.

REASON

To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.

84. Hazardous Material Survey before Demolition

Before demolition work commences, a hazardous materials survey of the site must be prepared by a suitably qualified person and a report of the survey results must be provided to Council at least one week before demolition commences.

Hazardous materials include, but are not limited to, asbestos materials, synthetic mineral fibre, roof dust, PCB materials and lead based paint.

The report must include at least the following information:

- (a) The location of all hazardous material throughout the site.
- (b) A description of the hazardous material.
- (c) The form in which the hazardous material is found, e.g. AC sheeting, transformers, contaminated soil, roof dust.
- (d) An estimation of the quantity of each hazardous material by volume, number, surface area or weight.
- (e) A brief description of the method for removal, handling, on-site storage and transportation of the hazardous materials.
- (f) Identification of the disposal sites to which the hazardous materials will be taken.

REASON

To require a plan for safely managing hazardous materials.

85. Site Preparation

Before demolition work commences the following requirements, as specified in the approved demolition management plan, must be in place until the demolition work and demolition waste removal are completed:

- (a) Protective fencing and any hoardings to the perimeter on the site.
- (b) Access to and from the site.
- (c) Construction traffic management measures.
- (d) Protective measures for on-site tree preservation and trees in adjoining public domain.
- (e) On-site temporary toilets.
- (f) A garbage container with a tight-fitting lid.

REASON

To protect workers, the public and the environment.

86. Asbestos Removal Signage

Before demolition work commences involving the removal of asbestos, a standard commercially manufactured sign containing the words 'DANGER: Asbestos removal in progress' (measuring not less than 400mm x 300mm) must be erected in a prominent position at the entry point/s of the site and maintained for the entire duration of the removal of the asbestos.

REASON

To alert the public to any danger arising from the removal of asbestos.

87. Handling of Asbestos during Demolition

While demolition work is being carried out, any work involving the removal of asbestos must comply with the following requirements:

- (a) Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling and of any asbestos material;
- (b) Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and
- (c) Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting must be registered with the EPA on-line reporting tool WasteLocate.

REASON

To ensure that the removal of asbestos is undertaken safely and professionally.

DURING ANY WORKS (including Demolition, Excavation and Construction)

The following conditions must be complied with during demolition, excavation and/or construction:

88. Approved Plans kept on Site

A copy of the Construction Certificate, the Development Consent and the approved and current stamped Construction Certificate plans and specifications must be kept on the site at all times and be available to Council officers upon request.

REASON

To ensure relevant information is available on site.

89. Noise during Construction

The following shall be complied with during construction and demolition:

- a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environmental Protection Authority's Interim Construction Noise Guidelines and the *Protection of the Environment Operations Act 1997*.

- b) Level Restrictions

Any building works being carried out must ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

- c) Out of hours work

For any activity that is required to be undertaken outside normal construction hours due to public safety, traffic related reasons, or significant concrete pour, a separate Out of Hours Works Permit is required prior to commencement of any out of hours works being undertaken.

An Out of Hours Application must be submitted for each separate event to Council a minimum of one month prior to the planned activity being undertaken.

d) Silencing

All possible steps should be taken to silence construction site equipment.

REASON

To protect the amenity of the neighbourhood.

90. Hours of Work

Site work, building work, demolition or vegetation removal must only be carried out between 7:00am to 5:00pm on Monday to Saturday. No works to be carried out on Sunday and public holidays.

Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a Police Officer or a public authority.

REASON

To protect the amenity of the surrounding area.

91. Deliveries

While site work is being carried out, deliveries of material and equipment must only be carried out between 7:00am to 5:00pm on Monday to Saturday. No deliveries to be carried out on Sunday and public holidays.

REASON

To protect the amenity of neighbouring properties.

92. Procedure for Critical Stage Inspections

While building work is being carried out, the work must not continue after each critical stage inspection unless the Principal Certifier is satisfied the work may proceed in accordance with this consent and the relevant Construction Certificate.

REASON

To require approval to proceed with building work following each critical stage inspection.

93. Implementation of the Site Management Plans

While site work is being carried out:

- (a) the measures required by the Construction Site Management Plan and the Erosion and Sediment Control Plan (plans) must be implemented at all times, and
- (b) a copy of these plans must be kept on site at all times and made available to Council officers upon request.

REASON

To ensure site management measures are implemented during the carrying out of site work.

94. Implementation of BASIX Commitments

While building work is being carried out, the Applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificates(s) approved by this consent, for the development to which the consent applies.

REASON

To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under Section 75 EP&A Regulation).

95. Site Management - Principal Certifier Inspections

Upon inspection of each stage of construction, the Principal Certifier (or other suitably qualified person on behalf of the Principal Certifier) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:

- a) Sediment control measures, and
- b) Provision of secured perimeter fences or hoardings for public safety to restrict access to building sites, and
- c) Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.

REASON

To protect public safety and water quality around building sites.

96. Surveys by a Registered Surveyor

While building work is being carried out, the positions of the following must be measured and marked by a registered Surveyor and provided to the Principal Certifier:

- a) All footings / foundations in relation to the site boundaries and any registered and proposed easements.
- b) At other stages of construction – any marks that are required by the Principal Certifier.

REASON

To ensure buildings are sited and positioned in the approved location.

97. Noise and Vibration – an approved document of this Consent

While site work is being carried out, noise generated from the site must be controlled in accordance with the requirements of the approved noise and vibration management plan.

REASON

To protect the amenity of the neighbourhood during construction.

98. Noise and Vibration Requirements

While site work is being carried out, noise generated from the site must not exceed an LAeq (15 min) of 5dB (A) above background noise, when measured at any lot boundary of the site.

REASON

To protect the amenity of the neighbourhood during construction.

99. Tree Protection during Work

While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:

- (a) the Construction Site Management Plan approved under this consent,
- (b) the relevant requirements of AS 4970 *Protection of Trees on Development Sites*,
- (c) The relevant clause of Council's relevant development control plan (in force as at the date of determination of this consent), and
- (d) any Arborist's Report approved under this consent.

This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

REASON

To protect trees during the carrying out of site work.

100. Responsibility for changes to Public Infrastructure

While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service providers pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.

REASON

To ensure payment of approved changes to public infrastructure.

101. Shoring and Adequacy of Adjoining Property

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any

structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense –

- a) Protect and support the building, structure or work from possible damage from the excavation, and
- b) Where necessary, underpin the building, structure or work to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

REASON

Prescribed condition – EP&A Regulation, Section 74.

102. Implementation of Soil and Water Management Plan

All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times throughout the entire demolition, excavation and construction phases of the development and for a minimum three (3) month period after the completion of the project, where necessary. The plan is to be available to Council Officers, on request.

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.

REASON

To ensure no substance other than rainwater enters the stormwater system and waterways.

103. Toilet Facilities

- a) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site, and
- b) Each toilet must:
 - i. Be a standard flushing toilet connected to a public sewer, or
 - ii. Have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - iii. Be a temporary chemical closet approved under the *Local Government Act 1993*.

REASON

To ensure compliance with the Local Government Act 1993.

104. Construction Activities – Minimise Pollution

The following conditions are necessary to ensure minimal impacts during construction:

- a) Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Council's stormwater pollution control requirements. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment, and
- b) Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area, and
- c) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls, and
- d) Building and demolition operations such as brick cutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system, and
- e) Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition, stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface, and
- f) Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
 - i. spraying water in dry windy weather, and
 - ii. cover stockpiles, and
 - iii. fabric fences.
- g) All vehicles transporting soil, sand or similar materials and demolition material to or from the site shall cover their loads at all times, and
- h) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site, and
- i) During the construction works, the Council nature strip shall be maintained in a clean and tidy state at all times and shall be suitably repaired and/or replaced in accordance with Council Specifications at the completion of construction works, and
- j) Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of two metres to remove mud from the tyres of construction vehicles, and

- k) An All-Weather Drive System or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

REASON

To protect neighbourhood amenity and the quality of the waterways.

105. Site Fencing

The site shall be secured by an 1800mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points and open and secured in such a way as to not obstruct the public footway. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifier, prior to the demolition of the existing structures and commencement of building operations.

REASON

To protect the amenity of the neighbourhood and ensure public safety.

106. Site Fencing and Hoarding

A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:

- a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- b) building involves the enclosure of a public place.

Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.

Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:

- a) the vertical height above footpath level of the structure being demolished is less than 4m, or
- b) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

- a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary, and
- b) have a clear height above the footpath of not less than 2.1m, and
- c) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface, and
- d) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

The Principal Contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

REASON

To protect the amenity of the neighbourhood and ensure public safety.

107. Demolition Requirements During Works

Demolition is to be carried out in the accordance with the following:

- a) The approved Safe Work Method Statement required by this consent, and
- b) Demolition is to be carried out in accordance with *Australian Standard 2601:2001: Demolition of structures*, *Work Health & Safety Act 2011 (NSW)*, *Work Health & Safety Regulation 2011 (NSW)* and the requirements of the NSW WorkCover Authority, and
- c) Vibration monitors must be placed at the footings of the nearest residential and/or commercial property(s) boundaries prior to any demolition commencing; and
- d) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority, and
- e) Dust control - dust emission must be minimised for the full height of the building. Compressed air must not be used to blow dust from the building site, and
- f) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal, and
- g) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by

- Council against the demolisher and/or owner for failure to comply with this condition, and
- h) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site, and
 - i) The burning of any demolished material on site is not permitted and offenders will be prosecuted. The demolition by induced collapse and the use of explosives is not permitted, and
 - j) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the Applicant's expense. *Dial Before You Dig* website: www.1100.com.au should be contacted prior to works commencing, and
 - k) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times, and
 - l) Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with WorkCover NSW requirements. *Protection of the Environment Operations Act 1997, Protection of the Environment Operation (Waste) Regulation* and '*Waste Classification Guidelines 2014*' prepared by the NSW Office of Environment and Heritage. Following completion, an Asbestos Clearance Certificate is to be provided to Council following the final asbestos clearance inspection.

REASON

To protect the amenity of the neighbourhood and ensure public safety.

108. Protection of Council's Property

During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation, and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Bayside Council.

REASON

To ensure public safety at all times and to protect the function and integrity of public infrastructure.

109. Vibration During Demolition Works

Demolition and construction works shall not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the Environment Protection Authority's *Technical Guidelines for Assessing Vibration*.

REASON

To protect the amenity of the neighbourhood and the structural integrity of nearby developments.

110. Approval and Permits under Roads Act and Local Government Act for Works Activities on Public Land

During all stages of demolition and construction, application(s) shall be made to Bayside Council (upon payment of a fee in accordance with Bayside Council's adopted fees and charges) to obtain the necessary approvals and permits for any and all works/activities on Bayside Council land or road reserve pursuant to the *Roads Act 1993* and *Local Government Act 1993*. All applications associated with works and activities on Bayside Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Bayside Council. Refer to Bayside Council "Work Activities on Council Sites Application Form" and "Road Opening Application" to obtain permits/approvals for the following:

- Road, Footpath and Road Related Area Closure – To temporarily close any part of the road, footpath or car park to vehicle or pedestrian traffic. This permit is required to allow the Applicant to close a road or part of, footpath or car park to vehicle or pedestrian traffic.
- Stand and Operate Registered Vehicle or Plant – To occupy any part of the road, footpath or car park to work from a vehicle parked on the street. This permit is required when construction activities involve working from a vehicle parked on the street including mobile crane, concrete truck, concrete pump or other similar vehicles.
- Occupy Road with Unregistered Item – To place a waste container or other item within the roadway which is not a registered vehicle. This permit is required to allow the Applicant to place unregistered items within the roadway including waste containers and skip bins.
- Erection of a Works Zone – To implement a statutory Work Zone for activities adjacent to the development site. These applications are assessed by Bayside Council officers and are referred to the Traffic Committee for approval. A Work Zone being that you must not stop or park in a work zone unless you are driving a vehicle that is engaged in construction work in or near the zone.
- Placement of Scaffolding, Hoarding and Fencing – To erect a temporary structure in a public place to enclose a work area. This permit is required for all temporary structures to enclose a work area within the public domain. These include site fencing, types A & B hoarding, type A & B hoarding with scaffolding and type B hoarding plus site sheds.
- Temporary Shoring/Support using Ground Anchors in Council Land – To install temporary ground anchors in public road to support excavation below

the existing road surface level. This permit is required to allow the Applicant to install temporary support system in or under a public road to support excavation below the existing road surface level. The support systems include ground anchors and shoring.

- Tower Crane – To swing or hoist over and across Council property (including roadway). This permit is required when tower crane(s) are used inside the work site and will swing, slew or hoist over Council property or asset.
- Public Land Access – To access through or occupy Council land. This permit is required by Applicants in order to access over or occupy Council land.
- Temporary Dewatering – To pump out groundwater from the site and discharge into Council's drainage system including road gutter. This permit is required when temporary dewatering is required to pump out water from the construction site into Council stormwater drainage system including gutter, pits and pipes. Dewatering management plan and water quality plan are required for this application.
- Road Opening Application - Permit to open road reserve area including roads, footpaths or nature strip for any purpose whatsoever, such as relocation / re-adjustments of utility services. This does not apply to public domain works that are approved through Bayside Council's permit for Driveway Works (Public Domain Construction – Vehicle Entrance / Driveway Application) / Frontage Works (Public Domain Construction – Frontage / Civil Works Application) under section 138 of the *Roads Act*.

A valid permit/approval to occupy Bayside Council land or road reserve to carry out any works or activities within the public domain must be obtained, and permit conditions complied with, during all stages of demolition and construction. Fines apply if an activity commences without a valid permit being issued. It shall be noted that any works/activities shown within Bayside Council land or road on the DA consent plans are indicative only and no approval of this is given until this condition is satisfied.

REASON

To ensure appropriate permits are applied for and comply with the Roads Act 1993.

111. Temporary Dewatering Permit - Water Quality Requirements

To ensure that relevant engineering and water quality provisions are met during the period of temporary dewatering for construction, a permit must be obtained from Council to permit discharge to the stormwater system. Temporary dewatering shall not commence until this permit is issued by Council. The permit must be current and valid at all times during dewatering operations.

The water quality must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be

released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report.

Reports shall be provided to Council prior to discharge of any groundwater to the stormwater system.

REASON

To ensure any ground water encountered during works is appropriately treated and disposed of.

112. Waste Management

While site work is being carried out:

- (a) all waste management must be undertaken in accordance with the Waste Management Plan, and
- (b) upon disposal of waste, records of the disposal must be compiled and provided to the Principal Certifier, detailing the following:
 - (i) The contact details of the person(s) who removed the waste.
 - (ii) The waste carrier vehicle registration.
 - (iii) The date and time of waste collection.
 - (iv) A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill.
 - (v) The address of the disposal location(s) where the waste was taken.
 - (vi) The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.

If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the Principal Certifier and Council.

REASON

To require records to be provided, during site work, documenting the lawful disposal of waste.

113. Waste Disposal Verification Statement

On completion of demolition work:

- (a) A signed statement must be submitted to Council verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and,
- (b) If the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to Council within 14 days of completion of the demolition work.

REASON

To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

114. Soil Management

While site work is being carried out, the Principal Certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- (a) All excavation material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification, and the volume of material removed must be reported to the Principal Certifier.
- (b) All fill material imported to the site must be:
 - (i) Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997*, or
 - (ii) a material identified as being subject to a resource recovery exemption by the NSW EPA, or
 - (iii) a combination of Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* and a material identified as being subject to a resource recovery exemption by the NSW EPA.

REASON

To ensure soil removal from the site is appropriately disposed of and soil imported to the site is not contaminated and is safe for future occupants.

115. Uncovering Relics or Aboriginal Objects

While site work is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered:

- (a) the work in the area of the discovery must cease immediately;
- (b) the following must be notified:
 - (i) for a relic – the Heritage Council; or
 - (ii) for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the *National Parks and Wildlife Act 1974*, section 85.

Site work may recommence at a time confirmed in writing by:

- (a) for a relic – the Heritage Council; or
- (b) for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the *National Parks and Wildlife Act 1974*, section 85.

REASON

To ensure the protection of objects of potential significance during works.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions must be complied with prior to issue of the Occupation Certificate:

116. Design Verification Statement

Prior to the issue of an Occupation Certificate for occupation or use of residential flat development, a design verification statement from a qualified designer certifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to Part 2 of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*.

REASON

To ensure the design quality is delivered in accordance with approved plans and the provisions under SEPP 65

115A. Plan of Management

Prior to the issue of the Occupation Certificate, a Plan of Management shall be prepared and submitted to Council for approval. The Plan shall include, but not be limited to the following:

- Shared use of communal open space
- Site maintenance
- Complaints management process
- Site manager contact details
- Noise management
- Compliance with the relevant provisions of SEPP (Housing) 2021

The Plan of Management shall include contact details for the onsite manager and is to be provided to all tenants.

REASON

To ensure compliance with SEPP (Housing) 2021.

117. Section 73 Certificate - Sydney Water

Prior to the issue of the Final Occupation Certificate, a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water.

It is recommended that applicants apply early for the Certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

REASON

To comply with Sydney Water requirements.

118. Consolidation of Lots

All allotments involved in this proposal must be consolidated into one allotment. Details demonstrating compliance with the requirements of this condition and evidence of registration are to be submitted to the satisfaction of the Principal Certifier prior to the issue of an Occupation Certificate.

REASON

To encourage the orderly and economic use of the land.

119. BASIX / Energy Efficiency Commitments

A Compliance Certificate must be provided to the Principal Certifier confirming that the development has been constructed in accordance with the commitments contained within the approved BASIX listed in Condition 1 prior to the issue of any Occupation Certificate.

REASON

To ensure BASIX and Energy Efficiency commitments are fulfilled.

120. Anti-Graffiti Coating

Prior to issue of the Occupation Certificate, ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement.

REASON

To protect the amenity of the surrounding area.

121. Provision of Intercom System

Prior to the issue of the Occupation Certificate, the entry to the car park and each pedestrian entry at the ground floor level of the building shall be provided with an intercom system.

The intercom system shall be connected to each dwelling unit / tenancy, and enable those units / tenancies to provide access to the car park for visitors.

REASON

To prevent queuing of vehicles and to ensure safe and effective access to the building.

122. Intruder Alarm Timer

All intruder alarms must be fitted with a timing device in accordance with the requirements of the *Protection of the Environment Operations (Noise Control) Regulation 2008*, and AS 2201 – Parts 1 and 2 – Intruder Alarm Systems.

REASON

To protect the amenity of residents in the surrounding area.

123. Location of Mechanical Ventilation

During occupation and ongoing use of the building, all mechanical ventilation system(s) or other plant and equipment that generates noise must be located on the site (including in a soundproofed area where necessary) to ensure the noise generated does not exceed 5 dBA above the ambient background noise at the boundary adjacent to any habitable room of adjoining residential premises.

REASON

To protect the residential amenity of neighbouring properties.

124. Occupation Certificate

The Occupation Certificate must be obtained prior to any use or occupation of the building/development. The Principal Certifier must ensure that all works are completed in accordance with this consent, including all conditions.

REASON

To ensure that an Occupation Certificate is obtained.

125. Annual Fire Safety Certificate

During occupation and ongoing use of the building, the applicant must provide an annual fire safety statement to Council and the Commissioner of Fire and Rescue NSW in accordance with section 89 of the *EP&A (Development Certification and Fire Safety) Regulation 2021*.

REASON

To ensure annual checks on fire safety measures.

126. Repair of Infrastructure

Before the issue of an Occupation Certificate:

- (a) any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction of Council, and at no cost to Council, or
- (b) if the works in (a) are not carried out to Council's satisfaction, Council may carry out the works required and the costs of any such works must be paid as directed by Council and in the first instance will be paid using the security deposit required to be paid under this consent.

REASON

To ensure any damage to public infrastructure is rectified.

127. Certification of New Stormwater System

Prior to the issue of any Occupation Certificate, a Civil Engineer registered with the National Engineering Register (NER) must certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The constructed stormwater drainage system shall be inspected, evaluated, and certified. The certification shall demonstrate compliance with the approved plans, relevant Australian Standards, Codes and Council Specifications. A works-as-executed (WAE) drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. The WAE plan must clearly illustrate the surveyed dimensions and details of all drainage aspects. The certification and WAE plan(s) shall be supplied to the Principal Certifier and Bayside Council.

REASON

To ensure that the stormwater system is constructed as approved and in accordance with relevant standards.

128. Completion of Public Utility Services

Before the issue of the relevant Occupation Certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, have been completed and this confirmation must be provided to the Principal Certifier.

REASON

To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.

129. Works-As-Executed Plans and any other Documentary Evidence

Before the issue of the relevant Occupation Certificate, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works must be submitted to the satisfaction of the Principal Certifier:

- (a) All stormwater drainage systems and storage systems including all required warning signage (OSD warning signage and confined space warning signage), and
- (b) Confirmation of installation of stormfilters in the WSUD tank.
- (c) Installation of traffic signal system,
- (d) A copy of the plans must be provided to Council with the Occupation Certificate.

REASON

To confirm the location of works once constructed that will become Council assets.

130. Positive Covenant Application

Prior to the issue of the Occupation Certificate, Positive Covenant(s) pursuant to the Conveyancing Act 1919 are to be created on the title of the lots on which the following systems are present:

- a) Stormwater Detention System

- b) Stormwater Pump-Out system
- c) Stormwater Quality Improvement Device

The terms of the instruments to be in favour of Bayside Council and are to be submitted to Bayside Council for review and approval. An application must be lodged with, and approved by, Bayside Council prior to issue of the Occupation Certificate.

Bayside Council must be provided with the relevant fees and all supporting information required (such as works-as-executed drainage plans and certification) prior to Bayside Council endorsing the Instrument. Council requires proof of lodgement of the signed documents with the NSW Land Registry Services prior to the issue of the Occupation Certificate.

REASON

To ensure that the approved stormwater system is maintained in good working condition.

131. Certification of Tanking and Waterproofing

Prior to the issue of any Occupation Certificate, an Engineer registered with the National Engineering Register (NER) shall certify that the tanking and waterproofing of all subsurface structures has been constructed in accordance with the approved design and specification. The certification is to include an inspection and evaluation of the works.

REASON

To ensure that subsurface structures are designed to prevent ingress of groundwater.

132. Geotechnical Certification

Prior to the issue of any Occupation Certificate, a Geotechnical Engineer shall certify that the construction works have been constructed in accordance with the approved construction geotechnical report/recommendations and include an evaluation of the completed works.

REASON

To ensure that the construction works have been completed in accordance with the approved construction geotechnical report/recommendations.

133. Rainwater Tank – Plumbing Certification

Prior to the issue of any Occupation Certificate, a registered plumber shall certify that the rainwater tank has been connected to all ground floor toilet flushing, the cold water tap that supplies all ground floor clothes washing machines on the ground floor, the car wash bay, and the landscape irrigation system for non-potable stormwater re-use.

REASON

To ensure that the rainwater will be reused within the site in accordance with this approval.

134. Certification of Acoustic Measures

Before the issue of an Occupation Certificate, a suitably qualified person must provide a Certification to the Principal Certifier demonstrating that the acoustic measures have been installed in accordance with the Acoustic Report approved under this consent.

REASON

To protect the amenity of the local area.

135. Parking Facility Certification

Prior to the issue of the Occupation Certificate, a Civil Engineer registered with the National Engineering Register (NER) shall certify that the vehicular access and off-street parking facilities have been constructed & line marked in accordance with the approved construction plans and the applicable Australian Standards (i.e., AS/NZS 2890.1, AS 2890.2, AS 2890.3, AS/NZS 2890.6, AS 1742). The car parking area is to be clearly and appropriately line marked/signposted indicating all the vehicular movements on the site. All parking spaces must be clearly designated as to their use in accordance with this development consent.

Furthermore, the below shall be certified as being implemented within the completed development:

- Wheel stops shall be installed in all car parking spaces adjoining high obstructions in accordance with AS/NZS 2890.1.
- Bollards shall be erected for all accessible parking spaces that are designed in accordance with AS/NZS 2890.6.
- Large convex mirrors are to be installed at all corners/bends throughout the parking facility to provide increased sight distance for vehicles.
- Maximum vehicle height flexible striker bars are to be installed at the vehicular entrance to the site to let motorists know of the maximum height vehicle (3.5m) permitted to enter the site and, an additional set of maximum vehicle height flexible striker bars are to be installed in the basement (where the headroom clearance reduces below 3.5m) so that motorists entering that section of the basement car park know the maximum height of vehicle permitted to enter that area.

The certification must be submitted to the Principal Certifier.

REASON

To ensure compliance with the relevant standards.

136. Erection of Signage

Prior to the issue of the Occupation Certificate, the following signage shall be erected:

a) Above Ground Stormwater System:

The above ground stormwater storage systems shall be marked by the permanent fixing of a marker plate of minimum size 200mm by 150mm to the nearest permanent surface. The plate shall be non-corrosive metal, or 4mm thick laminated plastic that contains the following wording "This is an onsite

stormwater system that will pond water during heavy storms. The outlet must be cleared of debris regularly”.

b) Vehicles Enter & Exit in Forward Direction:

All vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to a prominent place near the primary vehicular entrance to the site, approved by the Principal Certifier, stating the following: “All vehicles shall enter and exit the site in a forward direction at all times”.

The owners shall preserve the plaque(s) in a good condition and keep it visible.

REASON

To ensure that signposting occurs where required to advise people of restrictions or hazards.

137. Private Waste Collection

Waste and recycling must be collected by a private waste contractor within the site. A contract for waste and recycling collection must be entered into prior to issue of the Occupation Certificate and the maximum size of the waste collection vehicle shall be equal to or smaller than a SRV vehicle (as denoted by AS2890.2). The company engaged must ensure that all recycling is collected separately from waste. Council must be advised in writing within seven (7) days of a private contractor being engaged for waste collection services.

REASON

To ensure the waste can be collected on site in accordance with the approved development.

138. Loading Dock Management Plan

Prior to the issue of the Occupation Certificate, the Applicant shall prepare a detailed loading and servicing management plan for the development which includes, but shall not be limited to, operation hours, use of off-peak deliveries, methods to avoid congestion of service vehicles, booking system, how the vicinity will be shared and general mitigation measures to prevent amenity impacts to neighbouring properties and residents within the site. The plan shall be prepared by a suitably qualified professional and submitted to the Principal Certifier. The management plan is to be implemented for the lifetime of the use of the development.

REASON

To ensure that loading docks are operated in a manner that minimises amenity impacts to residents within the site and surrounding properties.

139. Undergrounding of Overhead Services and Installation of Lighting

Prior to the issue of the Final Occupation Certificate, all overhead cables, including electricity and telecommunications cables, along the entire length of all frontages of the development site must be relocated underground to the satisfaction of Bayside Council. The Ausgrid lighting and power poles will need to be decommissioned and

new underground supplied lighting columns shall be construction (where necessary) satisfying the applicable lighting requirements.

All works shall be carried out at the applicant's expense, to the satisfaction of the asset owner and Bayside Council. If further works are required beyond the frontages of the development site (e.g. across a road) to support the required works, these works must also be carried out at no cost or expense to Bayside Council. Bayside Council's Director of City Futures (or delegate) must advise in writing that the works have been completed to their satisfaction, prior to the issue of the Occupation Certificate.

REASON

To ensure that overhead services are placed underground to achieve required public domain outcomes.

140. Roads Act / Public Domain Works - Major Development Frontage Works

Prior to the issue of any Occupation Certificate, the Applicant shall carry out the following works as specified by Bayside council in accordance with Bayside Council's Engineer, Landscape Architect, Public Domain Masterplans, and Infrastructure Specifications:

- a) Construction of a new footpath and planting of required street trees/landscaping along all frontages of the development site.
- b) Construction of vehicular entrance/s designed to accommodate the largest vehicle entering the site.
- c) Construction of new kerb and gutter along the frontage of the development site.
- d) Removal of the existing concrete vehicular entrance/s, kerb laybacks and other damaged/redundant public domain improvements which will no longer be required.
- e) Reconstruction of selected areas of the existing footpath, vehicular entrances, road, kerb, and gutter as required.
- f) Construct new kerb inlet pits and associated minimum 375mm diameter stormwater pipe, connecting to existing stormwater infrastructure in Charles Street to Bayside Council infrastructure specifications.

The public footpaths shall be constructed in accordance with the approved Public Domain Plan and Bayside Council specifications. The footpath dimensions, location, pavement type and construction methods shall be in accordance with these specifications. If pavers are necessary, they shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).

All works within the road reserve, which are subject to approval pursuant to Section 138 of the *Roads Act 1993*, shall be completed to the satisfaction of Bayside Council at the Applicant's expense. A report shall be submitted in accordance with Bayside Council's Contributed Asset Procedure for all constructed assets in the ownership of Bayside Council. Works-As-Executed plans prepared by a registered surveyor and engineering certification shall be submitted.

Final inspection reports for the works on the road reserve shall be obtained from Bayside Council's authorised officer and submitted to the Principal Certifier attesting that this condition has been satisfied prior to the issue of any Occupation Certificate.

REASON

To ensure that required public domain outcomes are achieved.

141. Post-Construction Dilapidation Report

Before the issue of any Occupation Certificate, a post-construction dilapidation report must be prepared by a suitably qualified Engineer, to the satisfaction of the Principal Certifier, detailing whether:

- a) after comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and
- b) where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent, and
- c) a copy of the post-construction dilapidation report must be provided to Council (where Council is not the Principal Certifier or a Principal Certifier is not required) and to the relevant adjoining property owner(s).

REASON

To identify any damage to adjoining properties resulting from site work on the development site.

142. Dilapidation Report – Public Domain – Post-Construction

After the completion of all construction and public domain works, a professional Engineer specialising in civil, structural, or geotechnical engineering shall prepare a dilapidation report detailing the post-construction condition of Bayside Council's infrastructure adjoining, and within 50m of, the development site. This includes the condition of the road reserve (including footpath, nature strip, landscaping, trees, kerb and gutter, pits, pipes, traffic devices, signs, retaining walls, driveways, and road pavement etc.) and any other adjacent Bayside Council properties.

Photographs are to be in colour, digital, annotated and date stamped. The full name, accreditation, professional registration, and signature of the professional Engineer is to be detailed. The report is to be supplied in an electronic format to the Principal Certifier and Bayside Council.

Any damage identified in the dilapidation report must be fully rectified by the Applicant or owner at no cost to Bayside Council. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of Bayside Council's Director of City Futures (or delegate), prior to the issue of the Final Occupation Certificate.

REASON

To identify damage to adjoining properties resulting from building work on the development site.

143. Removal of Waste Upon Completion

Before the issue of an Occupation Certificate:

- (a) all refuse, spoil and material unsuitable for use on-site must be removed from the site and disposed of in accordance with the approved Waste Management Plan, and
- (b) written evidence of the waste removal must be provided to the satisfaction of the Principal Certifier.

REASON

To ensure waste material is appropriately disposed or satisfactorily stored.

144. Completion of Landscape and Tree Works

Before the issue of an Occupation Certificate, the Principal Certifier must be satisfied all landscape and tree-works have been completed in accordance with the approved plans and documents and any relevant conditions of this consent.

REASON

To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).

145. General Landscape

Prior to the issue of the Occupation Certificate, the following must be complied with to the satisfaction of the Principal Certifier:

- a) All landscape works are to be carried out in accordance with the approved landscape plans prior to issue of the Occupation Certificate by Bayside Council for the approved development.
- b) A Landscape Architect shall provide a report to the principal certifier (with a copy provided to Council, if Council is not the principal certifier) certifying that the landscape works have been carried out in accordance with the approved plans and documentation. The certificate shall, amongst other matters included in approved plans, confirm compliance with the following requirements:
 - a. Two (2) *Angophora costata* trees with a minimum pot size supplied to be 1000 litres be planted in deep soil as per the DRP request.
 - b. Trees planted above structures at time of inspection shall have a height of 2.2 to 2.5 meters, calliper at 300mm greater than 40mm, installed with stakes and ties within a mulch bed or equivalent.
 - c. Trees along the interface with Charles Street and public spaces shall be planted at minimum 200 litres, trees at time of inspection shall have a minimum height of 3.5 meters, calliper at 300mm greater than 60mm, installed with stakes and ties within a mulch bed or equivalent.
 - d. A minimum soil depth of 500mm is provided for all planter beds on the podium levels. Minimum soil depth of 800mm to be provided for small trees.

- e. A fully automated irrigation system has been installed to all podium landscaping, in ground levels and in roof terraces.
 - f. Podium landscaping and paved areas are drained into the stormwater drainage system.
- c) Prior to the issue of an Occupation Certificate, a maintenance plan is to be submitted and approved by the Principal Certifying Authority. A copy of the maintenance plan is to be kept on site at all times during construction and shall be produced to Council on request following completion. The Maintenance Manual shall include as a minimum:
- a. A 12 months Landscape Maintenance Schedule to provide a guide to the landowner or manager on how to best maintain the constructed landscaped areas; and include the following information: shrub pruning/trimming (frequency, plant requirements); Fertilising and pest control (soil testing, types, rate, frequency); Mulching, weeding and soil improvement (frequency, materials); Irrigation (checks, adjustments); maintenance of plants (fertilising, mulching, tree stakes adjustments, special plants requirements, alternative plants replacements if required); Maintenance of hard landscape elements (planters, waterproofing, irrigation, paving, edges, pergolas, seats, and any specialised maintenance requirements); Maintenance tasks of all play equipment,
 - b. Frequency and methodology of different maintenance requirements including the removal of green waste; irrigation system tests, waterproofing inspections.
 - c. Details of safety procedures;
 - d. Laminated copies of 'As Built' Landscape drawings, and a site plan with nominating all communal open spaces to be maintained by Strata.
 - e. Manufacturer's contact details and copies of manufacturers' typical details and specification;
 - f. Copies of warranties and guarantees relating to all materials and plant used in construction;

REASON

To ensure the approved landscaping works have been completed before occupation, in accordance with the approved landscaping plan(s).

146. Public Domain Landscape

Prior the issue of the Occupation Certificate, the Landscape works within the Public Domain shall comply with the following:

- a) Works to be completed in public space owned by Council, will be of no cost to Council, including the following: Landscaping and embellishment of Charles Street adjacent to the development site including entire frontage around 1 Charles Street. Works will include footpaths, paving, street trees, tree pits/grates and other planting, and street furniture, etc.
- b) All street trees have to be supplied in a pot size not less than **200 Litre**. Height shall be minimum 3.5meters, calliper at 300mm greater than 60mm, with a clear

trunk height of 1.5 meters. Trees supplied shall be healthy and vigorous, free of pest and disease, free from injuries. Trees provided shall conform to NATSPEC guide. Street trees will be specified in the frontage works application.

- c) Each new Street tree shall include a 50mm diameter slotted watering pipe with geotextile sleeve around rootball connected to watering grate (or kerb hole if WSUD option used) Root Rain Urban or equivalent.
- d) An experienced Landscape Contractor shall be engaged to undertake all landscaping public domain work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The Contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- e) **Root barriers** shall be specified to be installed in all street trees along both kerb and footpaths, or relevant services to be protected. Root barriers shall be installed as far as possible of trees. Ensure 50mm of root barrier is left above finished ground height. Root barrier shall be preferably 2 meters long to each side of the tree.
- f) **Mulching** - Tree pit mulched shall conform to AS 4454 and free of deleterious extraneous matter such as soil, weeds, wood slivers, stones. Mulch shall be in all tree pits to a depth of 100mm, when plants are installed, clear of all plant stems, and rake to an even surface flush with the surrounding finished levels.
- g) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.
- h) All telecommunication and utility services (including all high and low voltage power lines) are to be placed underground along the entire development site frontage including the installation of underground supplied street lighting columns. The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site. All works (including the installation of underground supplied street lighting columns) are to be completed prior to the issue of any Occupation Certificate to the satisfaction of Bayside Council.

REASON

To ensure the approved landscaping and public domain works have been completed before occupation, in accordance with the approved plan(s), and will be maintained for the lifetime of the development.

147. Completion of Site Works

The following works shall be completed on site and documentation submitted prior to the issue of any Occupation Certificate for the site:

- a) Construction Requirement – The residential flat development shall be built and completed in accordance with the Conditions of Development Consent No. 2023/50 prior to the issue of the Subdivision Certificate, and
- b) Letterboxes and Street Numbering - a separate letterbox for each dwelling shall be provided with permanent type numbers installed to each letterbox, and
- c) All the stormwater / drainage works shall be completed in accordance with the approved Construction Certificate plans, and
- d) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Subdivision Certificate, and
- e) Replace all redundant vehicle crossing laybacks with kerb and guttering, and redundant concrete with turf, and
- f) Water and sewer infrastructure shall be constructed in accordance with Sydney Water's "Notice of Requirements" for the issue of the Section 73 Compliance Certificate, prior to the issue of the Subdivision Certificate, and

REASON

To ensure that all relevant works have been completed and facilities provided prior to issue of the Subdivision Certificate.

OPERATIONAL CONDITIONS

148. Build-to-Rent Operation of the Development

The build-to-rent residential apartments shall comply with the following requirements throughout the life of the development:

- i. Balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain, and
- ii. An owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent, and
- iii. Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardised impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2. A test report from a qualified Acoustic Engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation, and

- iv. Any graffiti evident on the exterior facades and visible from a public place shall be removed forthwith.

REASON

To protect the amenity of future occupants and surrounding area.

149. On-Site Manager

While the development is owned and controlled by one person, the development shall be operated by one managing agent, who provides on-site management.

REASON

To ensure compliance with SEPP (Housing) 2021.

150. Plan of Management – Compliance with Approved PoM

Compliance with the approved Plan of Management is required at all times. The development should comply with the approved POM for the period that the building is in single management.

A copy of the Plan of Management must be displayed on site at all times and made available to all staff and/or occupants of the development.

REASON

To manage site operations so that adverse impacts are minimised.

151. Operation of Vehicular Premises

The operation of the development and movements of vehicles shall comply with the following requirements:

- a) All vehicles must enter and exit the site in a forward direction.
- b) All commercial vehicles (including deliveries and garbage collection) shall enter and exit the site in a forward direction and exit the site in a forward direction.
- c) All loading / unloading and garbage / waste collection activities shall take place on-site wholly within the dedicated loading areas and not from public places, public streets, or any road related area (e.g., footpath, nature strip, road shoulder, road reserve).
- d) The maximum size of vehicles accessing the site shall be limited to a 6.4m long SRV Vehicle (as denoted in AS2890.2).
- e) All maneuvering movements of vehicles shall be carried out wholly within the site and vehicle maneuvering area shall be kept clear at all times.
- f) Parking spaces must not be enclosed without further approval of Bayside Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS/NZS 2890.1.

- g) All vehicles shall be parked in the marked parking bays. All parking bays on-site shall be set aside for parking purpose only and shall not be used for storage of goods or machinery.

REASON

To manage site operations so that adverse impacts are minimised.

152. Maintenance of Stormwater Drainage System

The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking. Rainwater tanks shall be routinely de-sludged and all contents from the de-sludging process disposed: Solids shall be disposed to the waste disposal and de-sludged liquid shall be disposed to the sewer.

REASON

To protect waterways and minimise adverse impacts to the environment.

153. Maintenance of Wastewater and Stormwater Treatment Device

During occupation and ongoing use of the building, all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) must be regularly maintained to remain effective and in accordance with any positive covenant (if applicable).

REASON

To protect sewerage and stormwater systems.

154. Waste Management – Comply with Approved WMP

- a) The approved Waste Management Plan, as referred to in Condition 1, shall be complied with at all times during use and operation of the premises, and
- b) A sign shall be erected within or adjacent to the garbage room encouraging residents to recycle and not place recyclables into waste bins. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifier prior to the issue of the Occupation Certificate.

REASON

To minimise adverse impacts to the locality.

155. Waste Management by Strata Body

The Owners Corporation or building owner shall be responsible for the following:

- a) Compliance with the approved Waste Management Plan as referred to in Condition 1 at all times, during use and operation of the premises, and
- b) Management of waste storage and collection as follows:
 - i. All waste and recycling containers shall be stored in the designated waste storage area, and
- c) Where waste and recycling containers need to be moved to the street:
 - i. Movement of the waste and recycling containers to the footpath for collections, and
 - ii. Return of waste and recycling containers to the waste storage area on the same day as the refuse is collected, and
 - iii. Refuse containers are not to be left on the street for longer than 24 hours, and
 - iv. Cleaning and maintaining the waste storage area, any drainage installations and waste collection containers in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.
- d) Providing and maintaining signage and information to uses to encourage recycling.

REASON

To minimise adverse impacts to the locality.

156. Waste Management – Private Waste Collection

The Operator must comply with the following at all times during operations:

- a) Compliance with the approved Waste Management Plan as referred to in Condition 1, at all times during use and operation of the premises, and
- b) The operator shall ensure that a commercial contract for the collection of trade / commercial waste and recyclables arising from the premises is in place at all times during operations. A copy of all contracts and receipts shall be kept on the premises and made available to Council Officers on request.

REASON

To minimise adverse impacts to the locality.

157. Landscape – Maintenance

- a) The landscaped areas on the property / site shall be maintained in accordance with the approved Maintenance Schedule provided as part of the landscape documentation. Where vegetation approved as part of this consent dies, it must be replaced with new landscaping that achieves a similar height and form to that approved under the landscape plan, and

- b) Buffer planting, including trees and screening shrubs, along the periphery of the site as indicated in Approved final CC landscape plans is to be maintained at all times to ensure amenity and privacy is delivered.
- c) Maintenance tasks of trees in deep soil areas will include pruning to ensure CPTED principles are always met. All tree maintenance works must be done by a qualified arborist with a minimum level 3 in arboriculture (AQF). Trees along front or side setbacks are not to be pruned in height, unless required for safety reasons or for better development of the tree.
- d) A landscape contractor shall be engaged weekly for a minimum period of 52 weeks from completion of the landscape installation to maintain the landscaping. After that time monthly maintenance is required, and
- e) An automatic drip irrigation system shall be installed and maintained in working order for all landscaped areas at all times.

REASON

To ensure ongoing maintenance of approved landscaping.

DEVELOPMENT CONSENT ADVICE

A. Lapsing of Consent

This consent will lapse five (5) years from the date of consent, unless the building, engineering or construction work relating to the building, subdivision or work is physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse.

B. Out of Hours Construction Work

For any activity that is required to be undertaken outside normal construction hours due to public safety, traffic related reasons, or significant concrete pour, a separate Out of Hours Works Permit is required prior to commencement of any out of hours works being undertaken.

An Out of Hours Works Application must be submitted for each separate event to Council, a minimum of one month prior to the planned activity being undertaken.

C. Consult with Utility Provider

You are advised to consult with your utility providers (i.e. Ausgrid, Telstra, etc.) in order to fully understand their requirements before commencement of any work.

D. Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact *Dial Before You Dig* at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW).

If alterations are required to the configuration, size, form or design of the development upon contacting the *Dial Before You Dig* service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets.

It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the *Dial Before You Dig* service in advance of any construction or planning activities.

E. Subdivision does not form part of Approval

Strata / Torrens Title Subdivision does not form part of the subject development consent.

F. Dividing Fences Act 1991

This approval is not to be construed as a permission to erect any structure on or near a boundary contrary to the provisions of the *Dividing Fences Act 1991*.

G. Asbestos

All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:

- a) *Work Health and Safety Act 2011*, and
- b) *Work Health and Safety Regulation 2011*, and
- c) *Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]*, and
- d) *Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]*, and
- e) *Protection of the Environment Operations (Waste) Regulation 2005*.

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in the Health and Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the *Protection of the Environment Operations (Waste) Regulation 2005*.

H. Hazardous Waste

Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant

statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:

- a) *Work Health and Safety Act 2011*, and
- b) *Work Health and Safety Regulation 2011*, and
- c) *Protection of the Environment Operations (Waste) Regulation 2005*.

I. Street / Shop

A street / shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.

J. Lead-Based Paint

The removal, cleaning and disposal of lead-based paint shall conform with the requirements of the NSW Environment Protection Authority's Guideline - "*Lead Alert – The Six Step Guide to Painting Your Home (2014)*".

K. Noise Minimisation during Demolition and Construction

Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*.

Noise reduction measures shall include, but are not limited to, the following strategies:

- a) choosing quiet equipment, and
- b) choosing alternatives to noisy activities, and
- c) relocating noise sources away from affected neighbours, and
- d) educating staff and contractors about quiet work practices, and
- e) informing neighbours of potentially noise activities in advance, and
- f) equipment such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8.00 pm and 7.00 am, or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences.

Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary, at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.

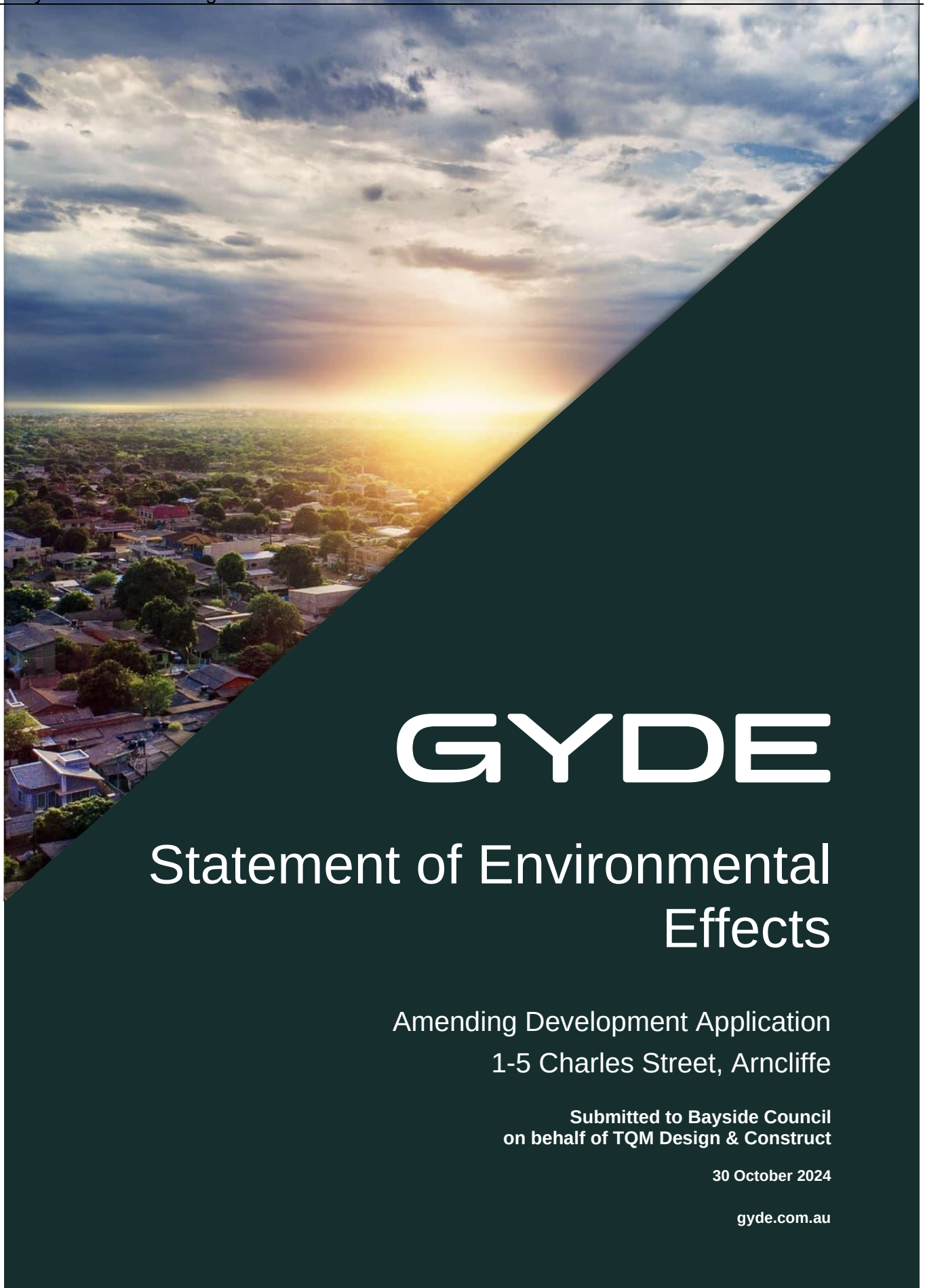
L. Annual Fire Safety Statement

In accordance with Clause 177 of the *Environmental Planning and Assessment Regulation 2000*, the owner of the building premises must cause the Council to be given an Annual Fire Safety Statement in relation to each essential fire safety measure implemented in the building.

The Annual Fire Safety Statement must be given:

- a) Within 12 months after the date on which the Fire Safety Certificate was received, and
- b) Subsequent Annual Fire Safety Statements are to be given within 12 months after the last such statement was given, and
- c) An Annual Fire Safety Statement is to be given in or to the effect of Clause 181 of the *Environmental Planning and Assessment Regulation 2000*, and
- d) A copy of the statement is to be given to the Commissioner of Fire and Rescue NSW, and a further copy is to be prominently displayed in the building.

* * * * *



Acknowledgment of Country

Gyde Consulting acknowledges and pays respect to Aboriginal and Torres Strait Islander peoples past, present, Traditional Custodians and Elders of this nation and the cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander people. We recognise the deep and ongoing connections to Country – the land, water and sky – and the memories, knowledge and diverse values of past and contemporary Aboriginal and Torres Strait communities.

Gyde is committed to learning from Aboriginal and Torres Strait Islander people in the work we do across the country.



Towards Harmony by Aboriginal Artist Adam Laws

This report was prepared by:

Approver: Stephen Kerr

Author: Parisa Sheikhi

Project: 24-001

Report Version: Final

This report was reviewed by: Anthony Kazacos

Disclaimer

This report has been prepared by Gyde Consulting with input from a number of other expert consultants (if relevant). To the best of our knowledge, the information contained herein is neither false nor misleading and the contents are based on information and facts that were correct at the time of writing. Gyde Consulting accepts no responsibility or liability for any errors, omissions or resultant consequences including any loss or damage arising from reliance in information in this publication.

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Appendices

The following plans and technical reports accompany the development application. Gyde has relied on the information in these reports, prepared by professionals in their field, for the preparation of this statement of environmental effects.

Appendix	Document	Prepared by
A	Architectural Plans	Marchese Partners
B	ADG Compliance Checklist	Marchese Partners
C	Design Excellence Statement	Marchese Partners
D	Acoustic Assessment	Acoustic Logic
E	BASIX Assessment & Certificates	Efficient Living
F	Ecologically Sustainable Development Report	Efficient Living
G	Geotechnical Investigation Report	JC Geotechnics
H	Wind Impact & Wind Tunnelling Emulation Assessment Report	SLR Consulting Australia Pty Ltd
I	Quantity Surveyor Report	Property & Building Assessment Pty Ltd
J	Traffic and Parking Assessment	Transport and Traffic Planning Associates
K	DCP Compliance Table	Gyde Consulting
L	NCC (BCA) Report	East Coast Approvals Group Pty Ltd
M	Civil Package	Mance Arraj Civil & Structural Engineers



1. Introduction

This Statement of Environmental Effects (SEE) has been prepared for TQM Design & Construct to accompany an amending development application (aDA) to Bayside Council.

The aDA relates to 1-5 Charles Street, Arncliffe (the site). It is noted that a development application for a 9-storey apartment with 50 apartments (DA-2023/50) was approved on 13 February 2024.

This application seeks approval for an additional one level of basement and 6 additional apartments across 2 new levels (the proposal), utilising the affordable housing bonus provisions permitted under the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP).

The table below summarises the development statistics of the approved vs proposed applications:

Table 1: Comparison table

	Approved Development (DA-2023/50)	Proposed Additions
Number of apartments	50 apartments	56 apartments
Number of “affordable housing” apartments	None	12 apartments
Number of storeys	9 storeys	11 storeys
Height in metres	27.098m	33.60m
Number of basement levels	3 levels	4 levels
Number of car parking	52 parking spaces 10 visitor parking spaces	59 parking spaces (incl. 6 parking spaces for affordable apartments) 11 visitor parking spaces

The proposal is for a “build to rent” residential flat building development. Residential flat buildings are permitted with consent in the R4 High Density Residential zone. The proposed development remains consistent with the zone objectives, as it still comprises of a variety of apartment types, therefore providing a variety of high-density housing options, in a highly accessible location, and maximising public transport patronage to Arncliffe Train Station.

The proposed development is a suitable response to the site and its existing and future context and continues to provide extensive landscaping on its interfaces. The proposal provides high quality communal open space with a good solar orientation. The proposal remains substantially compliant with the development standards and objectives of the *Bayside Local Environmental Plan 2021* (the BLEP), and the additional height sought is permissible under Section 16 of the Housing SEPP.

Refer to the Architectural Plans (Appendix A) prepared by Marchese Partners for further detail of the proposed amendments.

This SEE has been prepared pursuant to Section 4.12 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) and Clause 24 of the *Environmental Planning and Assessment Regulation 2021* (the EP&A Reg). The purpose of this SEE is to:

- describe the proposed development and its context
- assess the proposal against the applicable planning controls and guidelines, and
- assess the potential environmental impacts and mitigation measures.



The SEE concludes this proposal is of an appropriate scale and mass for the site, is consistent with the desired future character of the area, is well designed and has no adverse amenity impacts. It is considered that the proposal will deliver a suitable and appropriate development for the site and is worthy of approval.

1.1 Amending Development Applications

Section 4.17(1)(b) of the EP&A Act allows a consent authority to impose a condition on a development consent which requires the modification of a consent granted in relation to the land to which the development application relates (an 'amending development application'). The planning purpose of a condition imposed under section 4.17(1)(b) is to eliminate the inconsistencies that would otherwise exist if multiple consents applied to the site (*Lindsay Bennelong Developments v City of Sydney Council* [2016] NSWLEC 1064 at [45]).

Unlike modification applications made under section 4.55 of the EP&A Act, the 'substantially the same' test does not apply. An amending development application is useful where there is uncertainty regarding whether a development as proposed to be modified would be regarded as substantially the same as the development originally approved.

The procedure for giving effect to a condition imposed under section 4.17(1)(b) is set out in clause 67 of the EP&A Reg. It is achieved by the simple delivery of a notice to the consent authority and takes effect when the consent authority gives written notice to the person giving the notice that the consent authority received the notice.

2. Site Analysis

2.1 Local Context

The site is located at 1-5 Charles Street, Arncliffe, which is within the Bayside Local Government Area (LGA). The site is also located within Bayside West, which is a “Priority Precinct” and “Urban Growth Area” as nominated by the NSW Department of Planning, Housing and Infrastructure (DPHI). The site is located 1.3km from Sydney Kingsford Smith Airport, 500m walking distance from Arncliffe train and 10km from Sydney CBD (refer to Figure 1).



Figure 1 Aerial Image of Site (Source: Nearmap)

2.2 The Site

The site is comprised of 3 allotments, being:

- Lot 11 DP6602
- Lot A in DP954947
- Lot B in DP 954947

The site currently comprises 3 separate allotments, with individual one storey dwelling houses located on each lot (refer to Figure 5 and Figure 6). All 3 sites are currently accessed via Charles Street.

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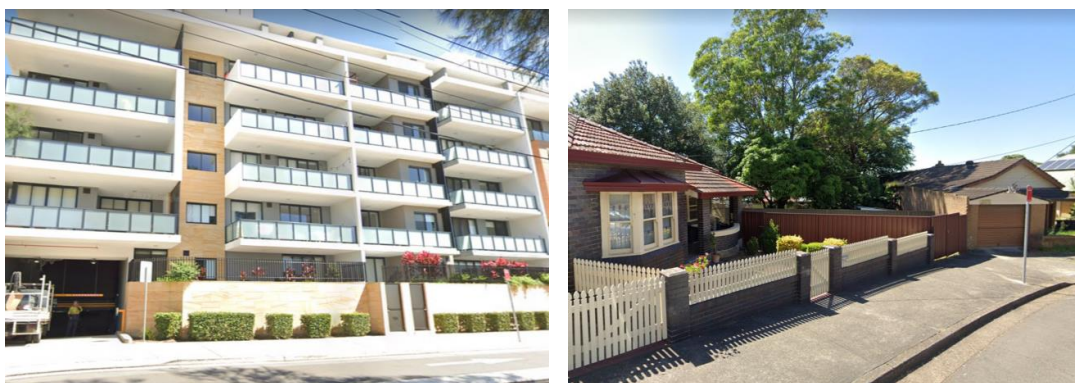
Figure 2 The site, view 1 and 2 (Source: Google Maps)

2.3 The surrounding locality

The surrounding locality is transforming into a high density residential precinct. It contains a number of land uses, including low rise residential as part of the initial establishment, high-density mixed use and residential flat building developments as part of several urban renewal pockets particularly closer to Arncliffe and Wolli Creek train stations, as well as several passive and active public open spaces including Eve Street Reserve and Wetlands.

The site is immediately surrounded by the following development:

- To the north: A recently constructed 6-7 storey residential flat building. Further to the north is the Princes Highway and Arncliffe Train Station.
- To the south and east: on the opposite side of and further along Charles Street are single detached residential dwellings. This area is also zoned R4 High Density Residential and will therefore likely be redeveloped for other purposes in the near future. Further to the east is the Eve Street Reserve and Wetlands.
- To the west: Along the Princes Highway are a number of new and old residential flat buildings and shop top housing developments, with heights up to 10 storeys.



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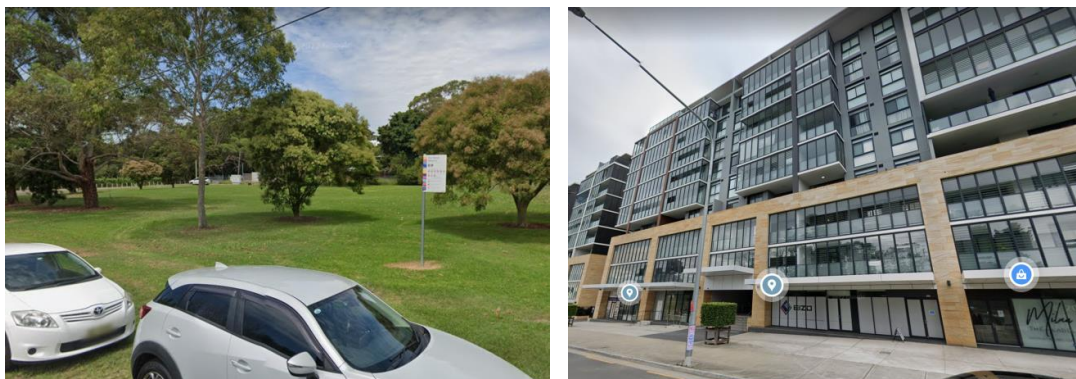


Figure 3 Surrounding locality (Source: Google Maps)

2.4 Relevant Planning History

Development application (DA-2023/50) relates to demolition of all existing structures, tree removal, site amalgamation, and construction of a nine (9) storey residential flat building comprising fifty (50) build-to-rent residential apartments, three levels of basement parking and associated landscaping with a common terrace on Level 8. DA-2023/50 was approved on 13 February 2024 by Bayside Council.



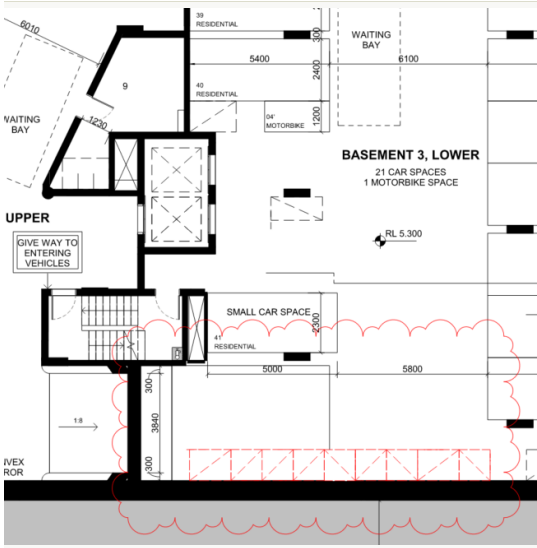
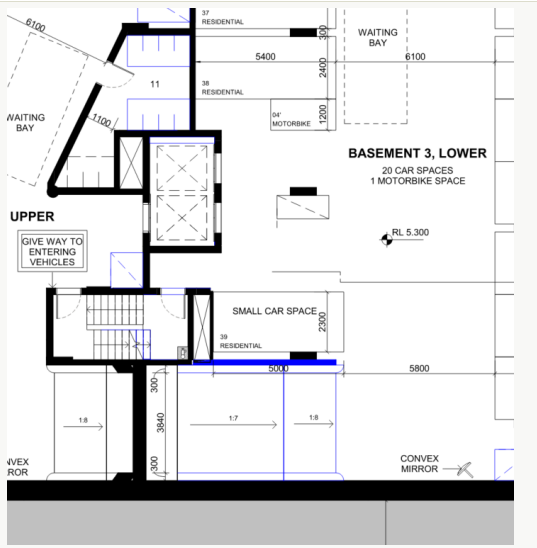
Figure 4 Photomontage of Approved Development (Source: Marchese Partners)

3. Description of Development

3.1 The development

Development consent is sought for:

- Reconfiguration of approved internal layouts. Refer to the table below for a detailed description of the proposed reconfigurations.

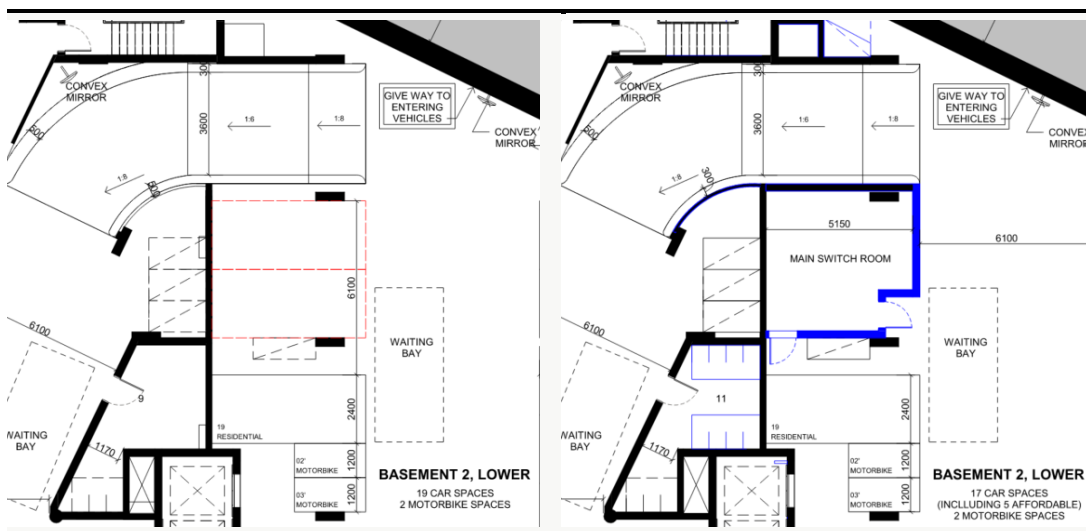
Approved	Proposed
Basement 3 Level The following works are proposed: - Relocation of storage spaces to allow space for ramp to Basement 4 level. - Reconfiguration of bicycle room to allow for more bicycle parking spaces.	
	

Basement 2 Level

The following works are proposed:

- Replacement of 2 car parking spaces with the main switch room.

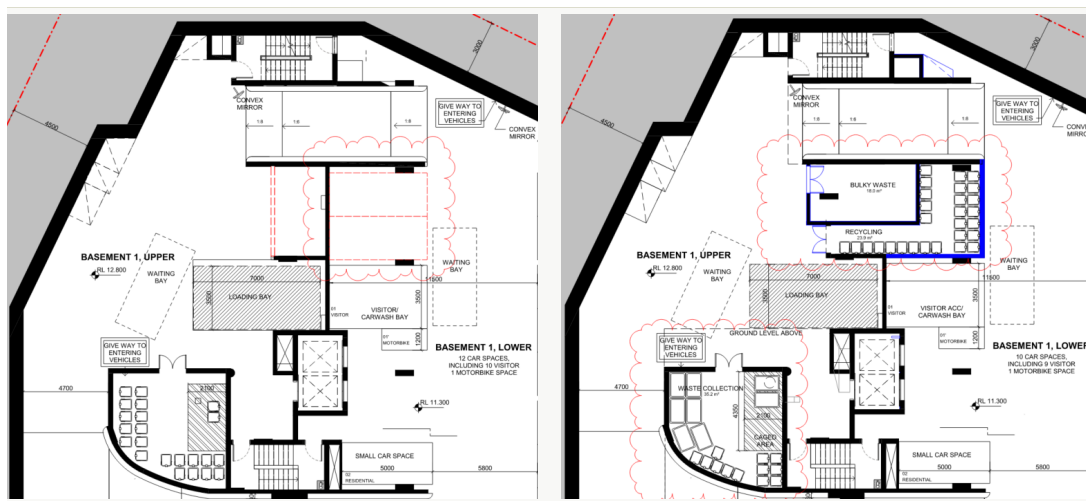
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Basement 1 Level

The following works are proposed:

- Internal reconfigurations to accommodate bulky waste room and recycling room.
- Internal reconfiguration of the waste collection room.

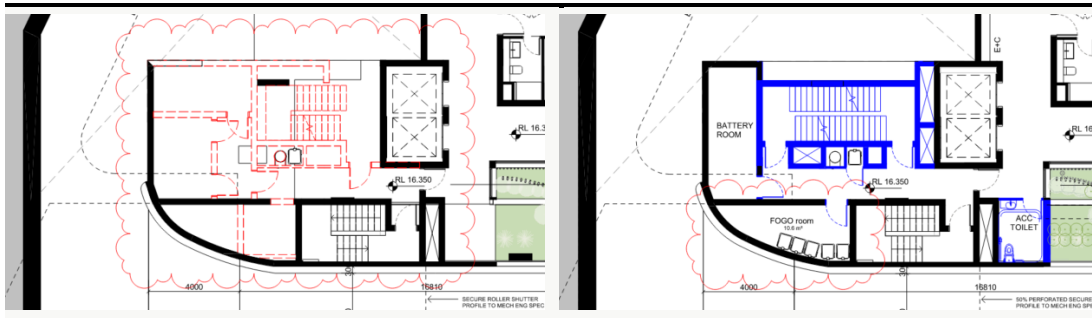


Ground Level

The following works are proposed:

- Expansion of common stairwell and internal reconfigurations to accommodate the expansion.
- Addition of an accessible toilet.

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Level 1

The following works are proposed:

- Amalgamation of 2 studio units to a 1-bedroom unit.
- Alterations to internal layout of the 2-bedroom unit to accommodate the stairwell expansion.
- Internal alterations to bathroom layout of 1-bedroom unit.

Levels 2 & 3

The following works are proposed:

- Alterations to internal layout of the 2-bedroom unit to accommodate the stairwell expansion.
- Internal alterations to bathroom layout of 1-bedroom unit.



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Levels 4-7

The following works are proposed:

- Alterations to internal layout of the 2-bedroom unit to accommodate the stairwell expansion.
- Amalgamation of one studio unit and a 2-bedroom unit to a 3-bedroom unit.
- Alterations to the 2-bedroom unit layout.

- Construction of an additional 2 storeys to the approved “built to rent” residential flat building, incorporating an additional 6 residential apartments.
- Construction of an additional basement level to the approved 3 basement levels, incorporating a total of:
 - 59 parking spaces (including 6 parking spaces for affordable apartments)
 - 11 visitor parking spaces
 - 4 motor bike spaces

Statement of Environmental Effects

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- 32 bicycle spaces.

3.2 Development Statistics

The key statistics and elements of the project are shown in the table below:

Table 2 Development Statistics

Element	Approved	Additions	Total
Site Area	1,662.81m ²		
Affordable GFA	None	742.5m ²	742.5m ²
Total Gross Floor Area	3,657.9m ²	1,096.9m ²	4,754.8m ²
Permissible GFA	3,658.2m ²	1,097.46m ²	4,755.61m ²
Maximum Height	27.098m	6.502m	33.60m
Affordable Apartments	None	12 apartments	12 apartments
Total Apartments	50 apartments	6 apartments	56 apartments
Total Parking	52 parking spaces 10 visitor parking spaces 4 motorbike spaces 30 bicycle spaces	-1 parking spaces -1 visitor parking	59 parking spaces (incl. 6 parking spaces for affordable apartments) 11 visitor parking spaces 4 motor bike spaces 32 bicycle spaces

3.3 Estimated Development Cost

The estimated development cost (EDC) of the additional one level of basement and 6 additional apartments across 2 new levels is estimated at \$3,021,969.00. Refer to the QS Report prepared by Property & Building Assessments and provided at Appendix I.

4. Statutory Planning Considerations

4.1 Overview

The relevant statutory framework considered in the preparation of this report comprises:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2021*
- *Biodiversity Conservation Act 2016*
- *Airports (Protection of Airspace) Regulations 1996*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *Bayside Local Environmental Plan 2021*.

Where relevant, these are addressed below.

4.2 *Environmental Planning and Assessment Act 1979*

4.2.1 Section 4.15 of EP&A Act 1979

Section 4.15(1) of the EP&A Act specifies the matters which a consent authority must consider when determining a development application. The relevant matters for consideration under Section 4.15 of the EP&A Act are addressed in the table below.

Table 3 Section 4.15 of EP&A Act 1979

Section	Comment
Section 4.15(1)(a)(i) Any environmental planning instrument	Consideration of relevant instruments is discussed in Section 4.
Section 4.15(1)(a)(ii) Any draft environmental planning instrument	Not relevant to this application.
Section 4.15(1)(a)(iii) Any development control plan	Consideration of relevant the development control plan is discussed in Section 4.8.3 and in the DCP Compliance Table (Appendix K).
Section 4.15(1)(a)(iiia) Any planning agreement	Not relevant to this application.
Section 4.15(1)(a)(iv) Matters prescribed by the regulations	Refer to Section 4.3.
Section 4.15(1)(b) - (e)	Refer to Section 5 of this SEE for consideration of (b), (c) and (e). Matter (d) relates to submissions and is a matter for the consent authority following public exhibition of the development application.

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4.2.2 Section 4.46 – Integrated Development

This section of the EP&A Act defines integrated development as matters which require consent from Council and one or more approvals under related legislation. In these circumstances, prior to granting consent Council must obtain from each relevant approval body their General Terms of Approval (GTA) in relation to the development.

The development application is Integrated Development in accordance with the *Water Management Act 2000* as the development involves a temporary construction dewatering activity.

The proposal involves excavation of basement car parking levels at a depth of 14 metres (RL 6.80m AHD). Testing on site has been undertaken and the geotechnical report prepared by JC Geotechnics dated 19 January 2023 demonstrates that groundwater was encountered at 4.3 metres (RL 14m AHD).

4.3 Environmental Planning and Assessment Regulation 2021

4.3.1 Clause 29 – Residential apartment development

Section 29 of the EP&A Reg requires that a DA for a residential apartment building must be accompanied by a design verification statement from a qualified designer, which confirms:

1. verify that the qualified designer designed, or directed the design, of the development, and
2. explain how the development addresses:
 - a. the design quality principles, and
 - b. the objectives in parts 3 and 4 of the Apartment Design Guide (the ADG).

The design verification statement as well as the ADG Compliance Table has been prepared by Marchese Partners which demonstrates how the objectives in parts 3 and 4 of the ADG have been addressed and accompanies this SEE at Appendix B.

4.3.2 Clause 61 – Additional matters that consent authority must consider

Clause 61(1) prescribes that the consent authority in determining a DA must consider Australian Standard AS 2601 – 2001. Any demolition works will be undertaken in accordance with AS 2601-1991. The Demolition of Structures published by Standards Australia.

4.3.3 Clause 69 – Compliance with Building Code of Australia

Any building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA) pursuant to Clause 69 of the EP&A Reg and will be conditioned as part any development consent.

A BCA Report has been prepared by East Coast Approvals Group and provided at Appendix L. The assessment has been undertaken in accordance with the Deemed-to-Satisfy provisions of the NCC-BCA 2019 amendment 1. Compliance with the BCA will be demonstrated with the Construction Certificate documentation.

4.4 Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (BC Act) lists and protects threatened species, populations and ecological communities that are under threat of extinction in NSW. Applicants must consider whether their proposal will exceed the following Biodiversity Offset Scheme Development Thresholds:

3. Exceeding the clearing threshold on an area of native vegetation,
4. Carrying out development on land included in the Biodiversity Values Land, or
5. Having a 'significant effect' on threatened species or ecological communities.

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No additional tree removal is proposed to the approved development, therefore, further consideration of the BC Act is not required.

4.5 Airports (Protection of Airspace) Regulations 1996

The proposal has a maximum height of 33.60m (measured from existing ground level (RL 18.55) to the roof level (RL 52.15). The obstacle limitation surface (OLS) in this case is 51m AHD. As the proposal breaches the OLS, it would need to be referred to Civil Aviation Safety Authority (CASA) and Air Services Australia for comment. Nevertheless, preliminary consultation has been undertaken with Sydney Airport indicating that concurrence is likely to be provided.

4.6 State Environmental Planning Policies

4.6.1 State Environmental Planning Policy (Planning Systems) 2021

The EDC of the amendments to the project is estimated at \$3,021,969.00. The DA will, therefore, be assessed by Council, but determined by the Bayside Local Planning Panel.

4.6.2 State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

The provisions of this chapter establish a State-wide planning approach for the remediation of contaminated land. Pursuant to s4.6 the consent authority must not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

As outlined and assessed as part of the original DA, the site has been historically used for residential purposes, so it is reasonable to conclude that there is a low likelihood of contamination, and the land will be suitable for the proposed use.

4.6.3 State Environmental Planning Policy (Housing) 2021

Chapter 2 - Affordable Housing

Table 4 Compliance with Housing SEPP

Provision	Comment
15C Development to which division applies	
(1) This division applies to development that includes residential development if— (a) the development is permitted with consent under Chapter 3, Part 4 or another environmental planning instrument, and (b) the affordable housing component is at least 10%, and (c) all or part of the development is carried out—	(1)(a) The proposed development (build to rent - residential flat building) is permitted with consent under the BLEP.

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Provision	Comment
(i) for development on land in the Six Cities Region, other than in the City of Shoalhaven local government area—in an accessible area, or (ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone. (2) Affordable housing provided as part of development because of a requirement under another environmental planning instrument or a planning agreement within the meaning of the Act, Division 7.1 is not counted towards the affordable housing component under this division. (3) In this section— relevant zone means the following— (a) Zone E1 Local Centre, (b) Zone MU1 Mixed Use, (c) Zone B1 Neighbourhood Centre, (d) Zone B2 Local Centre, (e) Zone B4 Mixed Use.	(b) 15.6% of the proposed GFA is proposed for affordable housing as shown in the GFA Diagrams (Appendix A) prepared by Marchese Partners. (c)(i) the site is within the Six Cities Region and is located 327m from Arncliffe Train Station, therefore satisfying the SEPP's "accessible area" criteria. (ii) N/A (2) N/A (3) Noted.
16 Affordable housing requirements for additional floor space ratio	
(1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2). (2) The minimum affordable housing component, which must be at least 10%, is calculated as follows— Affordable housing component = additional floor space ratio (as a percentage) ÷ 2 (3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1). (4) This section does not apply to development on land for which there is no maximum permissible floor space ratio.	(1) the proposal includes 15.6% affordable housing which then enables an additional Floor Space Ratio (FSR) of 30%. The maximum permissible FSR for the site is 2.2:1. With an additional 30%, the maximum FSR equals to 2.86:1. The proposed building, has an FSR of 2.86:1, therefore complies with the bonus FSR control. (2) for the additional 30% FSR, the proposed development must provide 15% affordable housing. The development includes 15.6% affordable housing. (3) the development is a residential flat building, therefore, the maximum building height is the maximum permissible building height (26.5m) plus the additional 30% which equals a maximum building height of 34.45m. The proposed building has a height of 33.60m and therefore complies with the bonus height control. (4) N/A
17 Additional floor space ratio for relevant authorities and registered community housing providers	
(1) This section applies to residential development to which this division applies that is carried out— (a) by or on behalf of a relevant authority or registered community housing provider, and	N/A

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Provision	Comment
(b) on land with a maximum permissible floor space ratio of 2:1 or less.	
18 Affordable housing requirements for additional building height	
(1) This section applies to development that includes residential development to which this division applies if the development— (a) includes residential flat buildings or shop top housing, and (b) does not use the additional floor space ratio permitted under section 16.	(1) the proposed development utilises the additional FSR permitted under Section 16. Therefore, this section does not apply.
19 Non-discretionary development standards—the Act, s 4.15	
(1) The object of this section is to identify development standards for particular matters relating to residential development under this division that, if complied with, prevent the consent authority from requiring more onerous standards for the matters. Note— See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with. (2) The following are non-discretionary development standards in relation to the residential development to which this division applies— (a) a minimum site area of 450m², (b) a minimum landscaped area that is the lesser of— (i) 35m² per dwelling, or (ii) 30% of the site area, (c) a deep soil zone on at least 15% of the site area, where— (i) each deep soil zone has minimum dimensions of 3m, and (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site, (d) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter, (e) the following number of parking spaces for dwellings used for affordable housing— (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, (iii) for each dwelling containing at least 3 bedrooms—at least 1 parking space, (f) the following number of parking spaces for dwellings not used for affordable housing—	(1) Noted. (2)(a) the site has an area of 1,662.81m², exceeding the minimum site area of 450m². (b) 30% of the site area is the lesser minimum landscaped area for this site (498.84m²). The proposal provides an overall 926.5m² landscaped area, therefore, complies with this provision. These areas are located on the Ground Floor, Level 1 and Level 10. (c) Chapter 4 applies to the development, therefore, according to Section 19(3) this section does not apply. (d) Chapter 4 applies to the development, therefore, according to Section 19(3) this section does not apply. (e) the proposal includes 59 parking spaces, 6 of which have been allocated to the affordable housing apartments. This allocation meets the requirements of this section. Refer to the Architectural Plans (Appendix A) for a breakdown of the proposed parking. (f) the proposal includes 59 parking spaces, 53 of which have been allocated to the apartments not

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Provision	Comment
(i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces, (g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development, (h) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide, (i) if paragraphs (g) and (h) do not apply, the following minimum floor areas— (i) for each dwelling containing 1 bedroom—65m², (ii) for each dwelling containing 2 bedrooms—90m², (iii) for each dwelling containing at least 3 bedrooms—115m² plus 12m² for each bedroom in addition to 3 bedrooms. (3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.	used for affordable housing. This allocation meets the requirements of this section. Refer to the Architectural Plans (Appendix A) for a breakdown of the proposed parking. (g) all apartments have been designed to have greater than required internal area in the ADG. (h) N/A (3) Noted.
20 Design requirements	
(1) Development consent must not be granted to development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces) under this division unless the consent authority has considered the Low Rise Housing Diversity Design Guide, to the extent to which the guide is not inconsistent with this policy. (2) Subsection (1) does not apply to development to which Chapter 4 applies.	(1) N/A as Chapter 4 applies to the development.
21 Must be used for affordable housing for at least 15 years	
(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development— (a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and (b) the affordable housing component will be managed by a registered community housing provider. (2) This section does not apply to development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation.	(1) Noted. The applicant is currently in discussions with registered community housing providers. (2) N/A

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Provision	Comment
22 Subdivision permitted with consent	
Land on which development has been carried out under this division may be subdivided with development consent.	Noted.

Chapter 3 - Diverse Housing

Given the proposed development includes build-to-rent (as part of the approved development), consideration has been given to the relevant provisions of the Housing SEPP.

Provision	Comment
72 Development for the purposes of build-to-rent housing permitted with consent	
(1) The objective of this section is to enable certain residential accommodation to be used as build-to-rent housing. (2) This Part applies to development for the purposes of multi dwelling housing, residential flat buildings or shop top housing on land— (a) in the following zones— (i) a zone in which development for the purposes of residential flat buildings is permissible under another environmental planning instrument, (3) Development consent may be granted for development to which this Part applies if— (a) the development will result in at least 50 dwellings occupied, or intended to be occupied, by individuals under residential tenancy agreements, and (b) all buildings containing the dwellings are located on the same lot. (4) Part 7 does not apply to development permitted under this Part.	Compliant. (a)(i) the site is zoned R4 High Density Residential which permits residential flat buildings. (a) the proposed development will result in 56 apartments. (b) the site comprises 3 allotments which will be consolidated at Construction Certificate stage.
73 Conditions of build-to-rent housing to apply for at least 15 years	
(1) Development consent must not be granted to the erection or use of a building for development to which this part applies unless the consent authority is satisfied that, during the relevant period, the tenanted component of the building— (a) will not be subdivided into separate lots, and (b) will be owned and controlled by 1 person, and (c) will be operated by 1 managing agent, who provides on-site management. (2) (Repealed) (3) In this section— relevant period means—	Noted. The proposed development will comply with these operational provisions.



Provision	Comment
(a) for development on land in Zone E2 Commercial Centre, Zone B3 Commercial Core or Zone SP5 Metropolitan Centre—a period commencing on the day an occupation certificate is issued for all parts of the building or buildings to which the development relates and continuing in perpetuity, or (b) otherwise—a period of 15 years commencing on the day an occupation certificate is issued for all parts of a building to which the development relates.	
74 Non-discretionary development standards—the Act, s 4.15	
(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of build-to-rent housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters. (2) The following are non-discretionary development standards in relation to the carrying out of the development to which this Part applies— (a) the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for a building on the land, (b) for development on land in a zone in which no residential accommodation is permitted under another environmental planning instrument—a floor space ratio that is not more than the maximum permissible floor space ratio for other development on the land under another environmental planning instrument, (c) if paragraph (b) does not apply—a floor space ratio that is not more than the maximum permissible floor space ratio for residential accommodation on the land under another environmental planning instrument, (d) for development carried out wholly or partly on land in the Greater Sydney Region— (i) for land within an accessible area—0.2 parking spaces for each dwelling, or (ii) otherwise—0.5 parking spaces for each dwelling, or (iii) if a relevant planning instrument specifies a requirement for a lower number of parking spaces—the lower number specified in the relevant planning instrument, (e) if paragraph (d) does not apply—at least the number of parking spaces required under the	(2)(a) the proposed height of the building is 33.60m, which is below the maximum building height permissible for the site under Section 16(3) of the Housing SEPP. (b) N/A (c) the proposed development complies with the permissible 2.86:1 FSR which includes the additional 30% permitted under Chapter 2 of this SEPP. (d) the proposed development complies with the infill housing and ADG parking requirements for the apartments. Refer to section 5.3.3.



Provision	Comment
relevant development control plan or local environmental plan for a residential flat building.	
75 Design requirements	
(1) This section applies to development to which this Part applies only if Chapter 4 applies to the building resulting from the development. (2) In determining an application for the modification of a development consent or a development application for the carrying out of development to which this section applies, the consent authority must— (a) be flexible in applying the design criteria set out in the Apartment Design Guide, including, in particular, the design criteria set out in Part 4, items 4E, 4G and 4K, and (b) in its consideration of the objectives set out in the Apartment Design Guide, Part 4, consider the following— (i) the amenities proposed to be provided to tenants residing in the building through common spaces and shared facilities and services, (ii) whether the configuration and variety of dwellings in the building will provide adequate options to prospective tenants in relation to the size and layout of the dwellings, (iii) whether tenants residing in the building will be able to relocate to other dwellings in the building that will better accommodate their housing requirements if their requirements change.	Noted. See below for compliance with ADG and Chapter 4.
76 Active uses on ground floor of build-to-rent housing in business zones	
N/A as site is contained within an R4 High Density Residential zone.	N/A
77 Conditions requiring land or contributions for affordable housing	
Nothing in this Part overrides a requirement to dedicate land or pay a monetary contribution under the Act, section 7.32.	N/A
78 Consideration of Apartment Design Guide for further subdivision of dwellings	
Development consent must not be granted for development involving the subdivision of a residential flat building for which consent has been granted under this Part unless the consent authority has considered the relevant provisions of the Apartment Design Guide in relation to the part of the building affected by the subdivision.	Noted.

Chapter 4 - Design of Residential Apartment Development

This chapter aims to improve the design quality of residential flat development to:

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- Ensure such buildings contribute to sustainable development
- Provide sustainable housing in social and environmental terms
- Achieve better built form and aesthetics of buildings, streetscapes and the public spaces they define
- Better satisfy the increasing demand, changing social and demographic profile of the community
- Maximise amenity, safety and security for the benefit of occupants and the wider community
- Minimise the consumption of energy from non-renewable resources

To support these aims the chapter introduces nine design quality principles. These principles do not generate design solutions but provide a guide to achieving good design and the means of evaluating the merit of proposed solutions.

In summary, the proposed development provides a positive contribution to its locality in terms of its design quality, the internal and external amenity it provides and an increase in housing choice and stock in the area. Furthermore, the proposed development achieves the relevant design objectives of the ADG as indicated in the Design Verification Statement.

Any non-compliances with numerical design criteria are minor, in response to specific circumstances, and with no unreasonable impacts. In this instance, it is worth noting Planning Circular 17-001, issued on 29 June 2017, which states that “the ADG is not intended to be and should not be applied as a set of strict development standards”. Additionally, Section 75 of the Housing SEPP states that “In determining an application for the modification of a development consent or a development application for the carrying out of development to which this section applies, the consent authority must be flexible in applying the design criteria set out in the Apartment Design Guide, including, in particular, the design criteria set out in Part 4, items 4E, 4G and 4K.”

Apartment Design Guide

The key provisions of the ADG relevant in the determination of the proposed development are assessed in Table 6.

Table 5 Assessment of the Proposal in Accordance with Key ADG Objectives and Design Criteria

ADG Objective	Design Criteria	Achievement of Objective
3D: Communal and public open space		
• Communal open space to enhance residential amenity, encourage a range of activities, be visually appealing and to provide opportunities for landscaping. • Communal open space should be designed to maximise safety.	• 25% of site area (minimum). • Minimum of 50% direct sunlight for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter).	Communal open space has been provided on the roof top and ground floor, representing 30% of the site. The communal open space complies with the required solar access.
3E: Deep soil zones		
• To provide areas on the site that allow for and support healthy plant and tree growth.	• 7% of site area (minimum) • Minimum dimensions = 6m	Deep soil area is 15.7% of the total site area. The dimensions of these areas range from 4.5 to 6 metres.
4A: Solar Access		

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ADG Objective	Design Criteria	Achievement of Objective															
To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.	- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area. - A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	45 out of 56 apartments receive at least 2hr solar between the hours of 9am and 3pm at mid-winter. This represents 80%. While solar access to the apartments has been optimised, 8 out of 56 (14.3%) apartments continue to receive no sunlight between 9am and 3pm during midwinter.															
4B: Natural Ventilation																	
To maximise natural cross ventilation for comfortable indoor environments	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	47 out of 56 apartments are naturally cross ventilated representing 84%.															
4D: Apartment Size																	
The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.	- Apartments are required to have the following minimum internal areas: 1 Bedroom: 50m² 2 Bedroom: 70m² 3 Bedroom: 90m² - The minimum internal areas include only one bathroom. - Additional bathrooms increase the minimum internal area by 5m² each.	The proposed unit mix complies with the minimum apartment sizes.															
4E: Private Open Space and Balconies																	
Apartments provide appropriately sized private open space and balconies to enhance residential amenity.	- All apartments are required to have primary balconies as follows: <table border="1"> <thead> <tr> <th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr> </thead> <tbody> <tr> <td>Studio apartments</td><td>4m²</td><td>-</td></tr> <tr> <td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr> <tr> <td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr> <tr> <td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr> </tbody> </table> - For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.	Dwelling type	Minimum area	Minimum depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	The proposed balconies, comply with the minimum areas and dimensions.
Dwelling type	Minimum area	Minimum depth															
Studio apartments	4m ²	-															
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															
2F Building Separation, 3F Visual Privacy and 4F Acoustic Privacy																	

ADG Objective	Design Criteria	Achievement of Objective												
ADG OBJECTIVE - Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy. - Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space. - Noise transfer is minimised through the siting of buildings and building layout. Noise impacts are mitigated within apartments through layout and acoustic treatments. NUMERICAL DESIGN CRITERIA - Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: <table border="1"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table>		Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	There are no amendments proposed to the approved building separation. The proposed setbacks and separation distances continue to comply with the ADG guidelines. The proposed development, provides the following separation distances: -To the west, adjacent to a residential flat building: a 9 metres separation distance. -To the south, adjacent to a driveway: 4.5 metres. The new levels follow the same separation pattern as the approved application. Therefore, the proposed setbacks and separation distances continue to comply with the ADG guidelines.
Building height	Habitable rooms and balconies	Non-habitable rooms												
up to 12m (4 storeys)	6m	3m												
up to 25m (5-8 storeys)	9m	4.5m												
over 25m (9+ storeys)	12m	6m												

4.6.4 State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 – Infrastructure

The provision of this chapter facilitates the effective delivery of infrastructure across the State.

2.119 Development with a frontage to classified road

Development that has the potential to impact on the operation or safety of classified roads may only be approved subject to the concurrence of Transport for NSW. The proposed development does not require TfNSW concurrence as the site does not have a frontage to classified road.

2.120 Impact of road noise or vibration on non-road development

Section 2.120 of the Transport and Infrastructure SEPP applies to development for the purpose of **residential accommodation** on land in or adjacent to the road corridor for a freeway, tollway or a transitway or any other road with an annual average daily traffic (AADT) volume of more than 20,000 vehicles and that the consent authority considers is likely to be adversely affected by road noise or vibration.

The development is not located along any roadways with an AADT volume of more than 20,000 vehicles or adjacent to a rail corridor and as such the acoustic requirements of the SEPP do not apply to the development.

2.122 Traffic generating development

Section 2.122 identifies traffic generating development which must be referred to the Road and Traffic authority. This provision is relevant as the proposal is of a type listed in column 1 of Schedule 3. This is not relevant to the proposed development, given only 56 apartments are proposed which is below the 300-apartment threshold.

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The consent authority must additionally consider:

- the accessibility of the site concerned, including:
 - the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
 - the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and
- any potential traffic safety, road congestion or parking implications of the development.

With regard to the matters the consent authority must additionally consider, we note that the Traffic and Parking Assessment Report concludes that the development will not result in adverse traffic implication and the proposed vehicle access, internal circulation and servicing provisions will be satisfactory.

4.6.5 State Environmental Planning Policy (Sustainable Buildings) 2022

The aim of this Policy is to establish a scheme to encourage sustainable residential development (the BASIX scheme). This on-line assessment tool calculates the dwelling's energy and water scores based on a range of design data.

This SEPP requires the submission of a BASIX certificate to accompany an application for development consent for any "BASIX affected building". A BASIX certificate for the residential component of the development is provided at Appendix E.

4.7 Bayside Local Environmental Plan 2021

4.7.1 Zoning and Permissibility

As shown in Figure 5 below, the site is zoned R4 High Density Residential under the provisions of the BLEP. The objectives of the R4 High Density Residential Zone are:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure land uses are carried out in a context and setting to minimise impact on the character and amenity of the area.
- To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.

The proposal is consistent with the objects of the zone because the proposal outlines a residential complex comprising 56 apartments of different sizes to cater to the changing requirements of the community. It is solely dedicated to residential use and aligns with the ongoing shift from low-density to high-density housing in the area. The location is conveniently close to frequent bus stops and train stations, encouraging the use of public transport. The proposal provides a positive planning outcome and responds to demand for high quality residential apartments, providing an affordable housing option for the community.

The proposal is characterised as a 'residential flat building' according to the dictionary to the LEP. Residential flat building is permissible with development consent in the R4 Zone.

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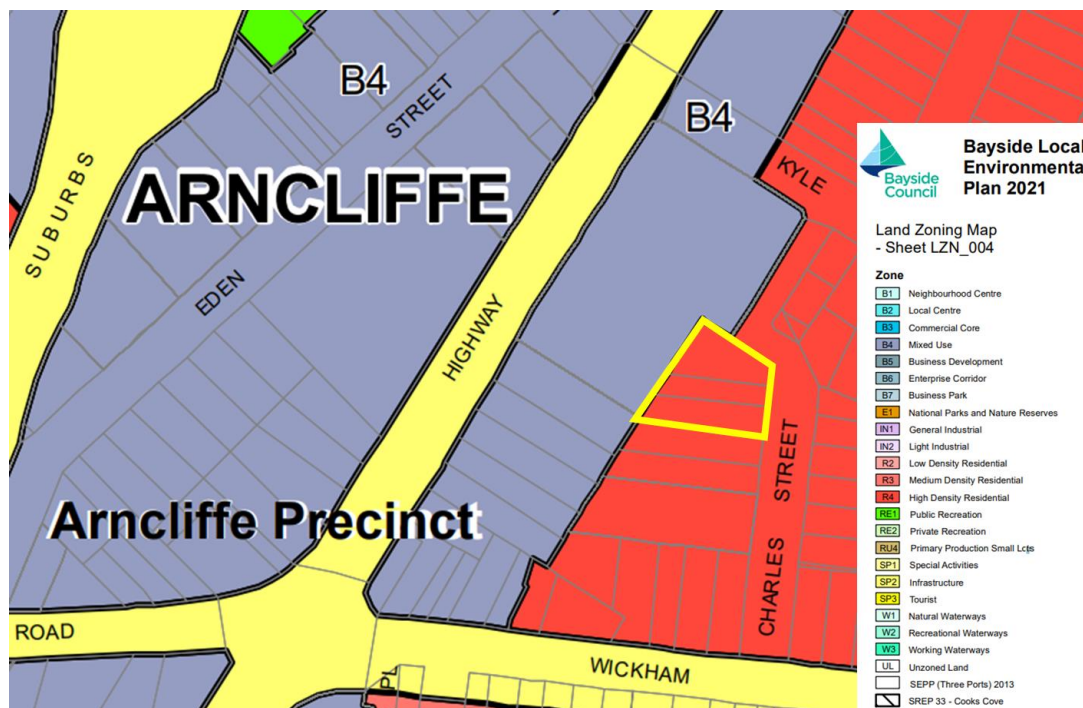


Figure 5 Extract of the Land Zoning Map, the site outlined in yellow (Source: BLEP)

4.7.2 Relevant Clauses

An assessment of the proposal against the relevant provisions of the LEP is set out in the following table.

Table 6 Assessment against relevant provisions of Bayside Local Environmental Plan 2021

Clause	Provision	Assessment
4.3 Height of buildings	Establishes a maximum building height of 26.5m for the site.	The proposal seeks to utilise the 30% additional height permitted in Chapter 2 of the Housing SEPP. See section 4.5.3 for further detail.
4.4 Floor space ratio	Establishes a maximum FSR of 2.2:1 for the site. (2E) Despite subclause (2), the floor space ratio for a building on land that is in Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone R4 High Density Residential on land identified as Area 15 on the Floor Space Ratio Map must not exceed 0.55:1 if the land has an area of less than 460 square metres.	In accordance with the Floor Space Ration map, the site has a maximum FSR control of 2.2:1. The proposal seeks to utilise the additional FSR permitted in Chapter 2 of the Housing SEPP. The site has an area of 1,662.8m ² , therefore, the maximum gross floor area permitted is 4,755.6m ² . The proposed development has a Gross Floor Area (GFA) of 4,754.8m ² , therefore, complies with this control.

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Clause	Provision	Assessment
		The site has an area of greater than 460m ² , therefore, Clause 2E does not apply.
5.1A Development on land intended to be acquired for public purposes	This clause applies to land shown on the Land Reservation Acquisition Map and specified in Column 1 of the Table to this clause and that has not been acquired by the relevant authority of the State specified for the land in clause 5.1.	The site is located within proximity to land that is intended to be acquired for public purposes (local road widening). The proposed development is not located within this land and will not inhibit the future road widening taking place.
6.1 Acid sulfate soils	The site is located within Class 5 Acid Sulfate Soils. Development consent is required for the carrying out of works below the natural ground surface within Class 5 land.	Nature and extent of acid sulfate soils, and if any proposed construction activities would be impacted was assessed and approved in the previous application. The proposed amendments do not result in any changes that impact the acid sulfate soils.
6.3 Stormwater and water sensitive design	The overriding objective of this clause is to minimise impacts of urban stormwater on land the subject of a DA, as well as adjoining land whether such land contains existing development or natural features.	The application is accompanied by Stormwater Concept Plans (Appendix M) prepared by Mance Arraj Civil & Structural Engineers. These plans ensure the proposal, as well as adjoining sites will be appropriately managed in response to proposed stormwater generation or any other existing stormwater features.
6.7 Airspace Operations	The obstacle limitation surface (OLS) in this case is 51m AHD.	The proposal's maximum height is 33.60m (52.150RL). As the proposal breaches the OLS, consideration has been given to <i>Airports Regulations 1996</i> in section 4.5.
6.8 Development in areas subject to aircraft noise	As outlined in the Acoustic Assessment at Appendix E, the site is located outside of ANEF 20 contour. Australian Standard AS 2021-2015 Aircraft Noise Intrusion – Building Siting and Construction has made the following notes regarding sites located outside ANEF 20 contour: <i>If the building site is outside the 20 ANEF contour, noise from sources other than aircraft may dominate; therefore, there is usually no need to proceed further in this Standard as the construction of the building need not specifically be designed to provide protection against aircraft noise intrusion.</i>	
6.10 Design Excellence	A Design Excellence Statement (Appendix C) has been prepared by Marchese Partners which addresses this clause.	

4.8 Other Planning Considerations

The applicable strategic planning framework includes:

- *Eastern City District Plan*

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- *Bayside Local Strategic Planning Statement (BLSPS)*
- *Bayside Development Control Plan (BDCP) 2022*

4.8.1 Eastern City District Plan

District plans are expected to transfer broad objectives established by the Greater Sydney Region Plan into local Environmental Planning Instruments. Of particular relevance to the subject site is the district plan's nomination of Wolli Creek and Arncliffe for urban renewal purposes.

The nature of the development proposed as part of this aDA is consistent with the renewal outcomes sought by the *Eastern City District Plan*. Specifically, in line with the aims of the plan, it will convert outdated low-density residential dwellings into a higher density residential flat building development and provide much needed affordable housing where people have good access to transport. The site is also located in close proximity to the Mascot Strategic Centre, The Sydney Airport Trade Gateway, the Green Grid Priority Corridor, as well as the potential M6 West connection to President Avenue Kogarah motorway.

4.8.2 Bayside Local Strategic Planning Statement (BLSPS)

The site is located within the Arncliffe and Banksia Special Precinct as identified in the *BDCP 2022*. As detailed in the *Bayside Local Strategic Planning Statement*, the site is located in a planned urban growth area. The locality has been identified as an area for urban renewal and it is acknowledged that there will be undergoing change over the coming years as it is being redeveloped. The proposed development will provide high-density residential apartments with affordable housing and choice to cater for all types of buyers and renters in an area with a good level of public transport to employment areas in Sydney CBD, Mascot and Sydney Airport. A lack of affordable housing has been identified as a serious and increasing problem for Bayside, and the importance of maintaining socio-economic diversity is highlighted. Accordingly, the proposed development is consistent with the aims and objectives of the BLSPS.

4.8.3 Bayside Development Control Plan 2022

Consideration of compliance and/or consistency with the relevant provisions within the BDCP 2022 is provided in the Planning Compliance Table provided at Appendix K. The DCP Compliance Table demonstrates that the proposed amendments are fully compliant with the relevant provisions or complies with intent.

The site is located within the Arncliffe and Banksia Special Precinct, where site-specific controls apply. This requires the application of Part 7.4 Specific Places - Arncliffe and Banksia to be read in conjunction with all other applicable parts of the BDCP. The controls within Section 7.4 supersede all other parts of the BDCP if there are any discrepancies.

In relation to the Residential Flat Building component of the proposal, in accordance with Chapter 4 of the Housing SEPP, no development control plans can be inconsistent with the ADG.

The BDCP therefore, has no effect in relation to: (a) visual privacy, (b) solar and daylight access, (c) common circulation and spaces, (d) apartment size, (e) ceiling heights, (f) private open space and balconies, (g) natural ventilation and (h) storage. Accordingly, this DCP Compliance Table only applies to aspects of the BDCP which are applicable to the proposed amendments.



5. Assessment of Likely Impacts

This section identifies and assesses the impacts of the development with specific reference to the heads of consideration under Section 4.15 of the Act.

5.1 Context and Setting

The context and setting of the development site are described in section 2.3 of this Statement.

The proposal is compatible within the context and built form of the character of the existing and future high-density residential character of the locality. The proposal provides a built form and massing which is considered to positively contribute to the quality and transitioning identify of the locality.

Further, the proposed development is consistent with the BLEP and the BDCP, as residential flat buildings (and build to rent developments) are permitted with consent within the R4 High Density zone, and the generous deep soil landscaped setbacks are provided along the site's boundaries.

Further consideration of the compatibility of the proposal and its surroundings can be undertaken with regard to the Land Environment Court Planning Principle on "compatibility with context" in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191. In order to test whether a proposal is compatible with its context, the following two questions can be asked:

- Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

The proposal's physical impacts on surrounding development are acceptable. The proposal does not result in any unreasonable amenity impacts, with the adjoining properties maintaining a high level of solar access. The proposal does not limit the development potential of surrounding sites, as acceptable building separation is achieved as detailed in section 4.5.3.

- Is the proposal's appearance in harmony with the buildings around it and the character of the street?

Arncliffe and neighbouring Wolli Creek are local business centres that is undergoing a transformation with much of the existing low scale commercial / residential development being demolished and being replaced with larger contemporary mixed use and residential apartment building developments. The provision that enables additional height (under the bonus provisions of the Housing SEPP) for the site also apply to adjoining sites resulting in cohesive character within the local area. Refer to Figure 6, which illustrates the future existing and future context of the surrounding area.

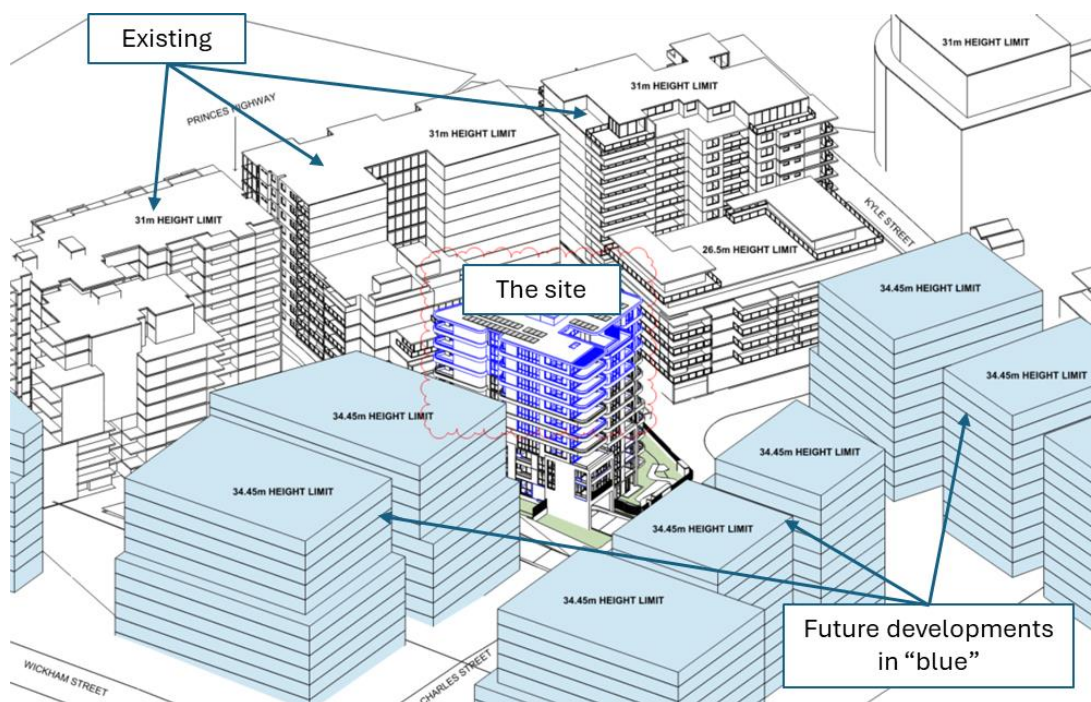


Figure 6 Future Context Diagram (Source: Marchese Partners)

5.2 Natural Environment

5.2.1 Wind Analysis

An Environmental Wind Impact has been prepared by SLR Consulting (Appendix H).

The proposed development has been designed to avoid direct exposure to the stronger prevailing winds impacting the site. The proposed amendments are consistent with the approved form of the building and are not expected to cause adverse impacts.

The report concludes that by incorporating the proposed windbreak mitigation treatments, all amenity locations within the development are expected to achieve the target criterion established for the project.

5.3 Built Environment

5.3.1 Height, Bulk and Scale

The site has a maximum permissible height of building control of 26.5m according to the BLEP. The proposed development seeks to utilise the provisions of Chapter 2 of the Housing SEPP which allows for an additional 30% height when the development is able to provide 15% of affordable housing. Therefore, the proposed development has a maximum building height of 33.60m which is below the maximum building height permissible of 34.45m under the Housing SEPP (Figure 7). The additional height does not result in a development that is inconsistent with the future character of the area as the provisions enabling the additional height is also applicable to the adjoining sites (Figure 6).

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Figure 7 Building Height Plane Diagram (Source: Marchese Partners)

The proposal also complies with the maximum FSR for the site when utilising the additional 30% FSR permitted under Chapter 2 of Housing SEPP. The proposed amendments do not affect the setbacks of the development which have been previously approved and the new levels follow the same separation pattern as the approved application. The proposal also remains compliant with the numerical building separation design criteria of the ADG as there are no proposed changes to the approved built form.

5.3.2 Solar Access to Surrounding Development

Chapter 2 of the Housing SEPP allowing developments to provide affordable housing by enabling additional height for eligible developments. The new height of the building does not affect the proposed development remaining consistent with the future character of the area. The proposed height of the development is compatible with the future character of the area (refer to Figure 8), as the surrounding land can also seek similar additional building height on top of their 26.5m height limit under the Housing SEPP. Additionally, a 31m height limit is also applicable to land to the west, along the Princes Highway which have already been constructed.

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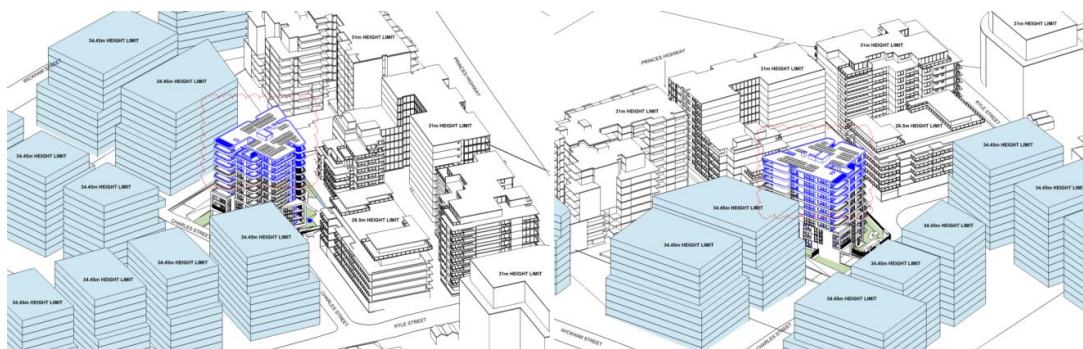
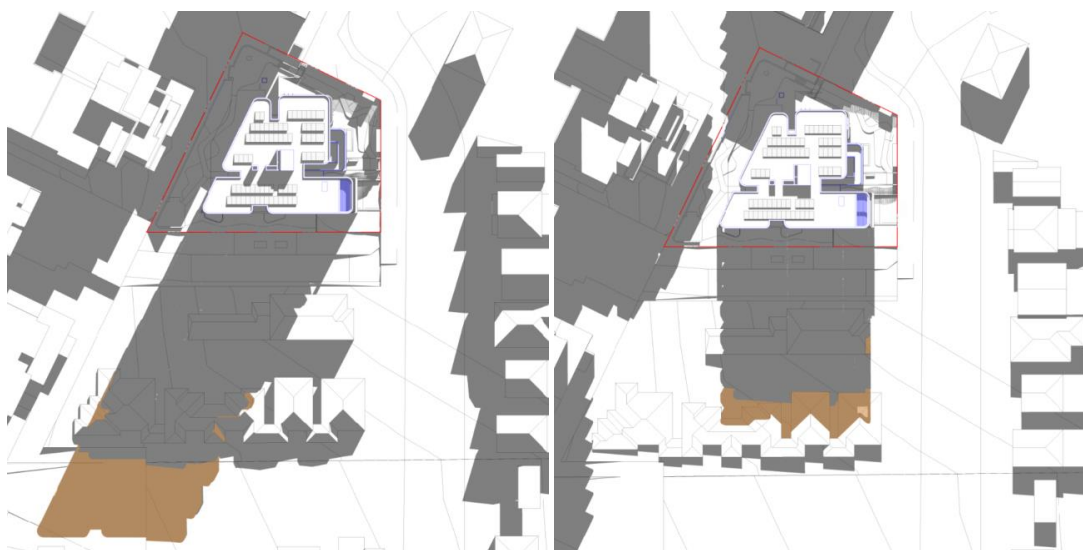


Figure 8 Future Context Diagram (Source: Marchese Partners)

The proposed development maintains compliance with relevant setbacks to minimise overshadowing and adheres to the ADG requirements, ensuring solar access to living areas, private open spaces, and communal areas while preventing a significant reduction in sunlight for neighbouring properties. The overshadowing effects on neighbouring land due to the additional height are transient, shifting within the hour. As a result, there are no lasting, significant overshadowing impacts on neighbours caused by the increased height (Table 7).

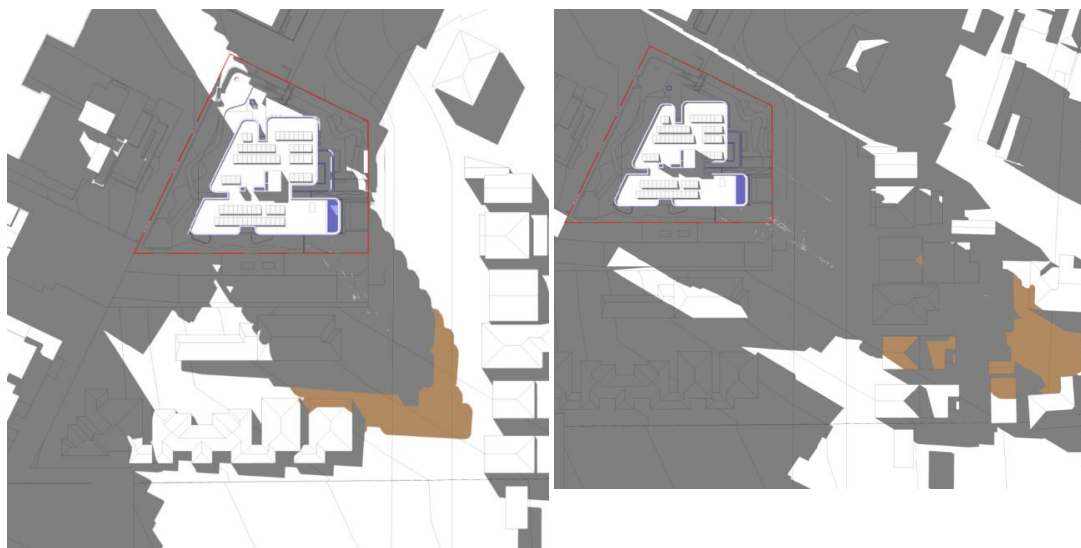
Table 7 Shadow Analysis – June 21st from 9AM to 3PM (Source: Marchese Partners)



Shadow Analysis – June 21st 9AM

Shadow Analysis – June 21st 11AM

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Shadow Analysis – June 21st 1PM

Shadow Analysis – June 21st 3PM

5.3.3 Transport, Parking and Traffic

The area is well served by public transport services including:

- Arncliffe station, which is on the Illawarra line, approximately 500 metres to the west of the site.
- State Transit Route 420 bus service (170 metres to the south) which runs along Wickham Street connecting between Rockdale and the Airport and Eastgardens.
- State Transit Route 422 service (290 metres to the south-east) which runs along West Botany Street and the Highway connecting between Rockdale and Dulwich Hill via Sydenham.

The development provides 59 parking spaces including 6 spaces for the affordable apartments and 53 spaces for the remaining apartments. This is consistent with both the provisions of the ADG and the non-discretionary standards for in-fill affordable housing in the Housing SEPP. Additionally, the development includes 11 spaces for visitor parking which meets the visitor parking requirements in the ADG.

The site's location is well-served by public transportation, reducing the need for additional visitor parking as visitors can easily access buses, trains, or other public transport options. Additionally, the development offers 32 bicycle spaces, encouraging visitors to use alternative transportation and thereby reducing the demand for parking spaces. Importantly, the development fully complies with the required parking spaces for the apartments themselves, ensuring that residents' parking needs are met.

A Traffic and Parking Assessment has been prepared by Transport and Traffic and Planning Associates (Appendix J).

The potential traffic generation of the amended development based on the RMS criteria is assessed in the following:

	AM Peak	PM Peak
56 Apartments	11 vtp	9 vtp

The additional 6 units have minor impact on the previously approved traffic generation of the development increasing the AM peak from 10vtp to 11vtp and the PM peak from 8vtp to 9vtp.

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The Traffic and Parking Assessment concludes that the access intersections will continue to operate satisfactorily with the very minor additional traffic movements generated by proposed development.

5.4 Social and Economic Impacts

5.4.1 Crime and Safety

The development will continue to follow Crime Prevention through Environmental Design (CPTED) measures consistent with the previous approval. It is anticipated that this will assist in minimising the incidence of crime and contribute to perceptions of increased public safety.

5.4.2 Social, Economic and Employment

The proposed development provides a mixture of housing types that will contribute to the housing supply of the rental dwellings in the Arncliffe Area. The proposed mix of 1-, 2- and 3-bedroom apartments is a result of market demand in the area particularly with regard to transport, local employment, sporting facilities, restaurants and retail amenity. The proposal provides a positive planning outcome and responds to demand for additional rental properties within the area at an affordable price point. There are no adverse social impacts as a result of the development, and the proposal is consistent with the desired character of the locality.

5.5 Suitability of the Site

5.5.1 Geotechnical

A Geotechnical Report has been prepared by JC Geotechnics (Appendix G).

Westconnex M8 Motorway

The proposed excavation along the southern boundary will extend to a depth of about 13m (or RL of 5.3m) below existing surface levels. WestConnex M8, which is a TfNSW asset, is located approximately 12-15m away from the southern boundary of the site.

Notwithstanding, an engineering and impact assessment is likely to be required to demonstrate that the effects of the proposed development on the existing tunnels and underground facilities will not cause any adverse effects. Depending on the complexity of the development, a two dimensional or three-dimensional numerical modelling (finite element (FE) or finite difference (FD)) will need to be carried out.

Groundwater

Groundwater seepage was not encountered in the borehole during and following the completion of auger drilling. Water flush during the coring process precluded any further measurement of groundwater levels.

The groundwater level was measured at depth of about 4.3m (or RL of about 14m) in BH1 prior to bailing of water. The water in the well was pumped out to a depth of about 9.3m (or RL of about 9m) below existing surface levels. The groundwater level was measured at depth of about 6.5m (or RL of about 11.8m) below existing ground level half an hour after pumping out the water.

The actual groundwater table or aquifer is expected to be deeper than the proposed lowest basement level and it is not considered likely that an aquifer interference approval will be required. For this reason, the application has not been nominated as integrated development.

A dewatering management plan including groundwater sampling from at least three monitoring wells (to meet Water NSW requirements) together with groundwater quality testing and numerical seepage analysis is likely to be required for submission to Water NSW should an application for Approval for Water Supply Works and/or Water Use be required.

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5.6 Public interest

According to Brown C in *Ex Gratia Pty Limited v Dungog Shire Council* [2005] NSWLEC 148, a development proposal is in the public interest when the public advantages of the proposal outweigh the public disadvantages.

There are no unreasonable impacts that will result from the proposed development, therefore, the benefits of providing additional housing supply in a highly accessible and well serviced area outweigh any disadvantage and as such the proposed development will have an overall public benefit.



6. Conclusion

This SEE has undertaken an environmental assessment of the proposal for an additional one level of basement and 6 additional apartments across 2 new levels at 1-5 Charles Street, Arncliffe.

This assessment found that the proposal continues to achieve the objectives of the relevant environmental statutory considerations including but not limited to the EP&A Act, Resilience and Hazards SEPP, Housing SEPP, the BLEP and the BDCP with only one minor non-compliance.

In summary, the proposal is considered to:

- be an appropriate response to the context, setting, planning instruments and development guidelines and other considerations outlined in Section 4.15(1) of the EP&A Act;
 - provide a built form consistent with and appropriate to the desired future character of the site;
 - provide affordable rental apartments,
 - provide for a high quality of amenity for residential uses; and
- have no unreasonable impacts on the environment, traffic, parking, drainage or other external features or services.

Given the findings of this assessment, we consider that the proposal is in the public interest and merits approval.



02 September 2025

Michael Maloof
Senior Development Assessment Planner
444-446 Princes Highway
Rockdale NSW 2216

Dear Michael,

RE: Request for Section 67 Notice of Modification - 1-5 Charles Street Arncliffe (Council Re: DA-2024/309)

We are writing on behalf of TQM Design and Construct, the applicant of the Amending Development Application located at 1-5 Charles Street, Arncliffe.

This letter has been prepared in response to Council's request for a Section 67 notice of modification.

The table below provides a response to the matters outlined in Section 67 of the *Environmental Planning and Assessment Regulation 2021*.

Table 1 Section 67 of the *Environmental Planning and Assessment Regulation 2021*

67 Modification or surrender of development consent or existing use right—the Act, s 4.17(5)	Comment
(1) A development consent or existing use right may be modified or surrendered by written notice to the consent authority.	Noted
(2) The notice must contain the following information— (a) the name and address of the person giving the notice,	Name: TQM Design and Construct Address: Level 10, 6 Mount Olympus Boulevard, Wolli Creek NSW 2205
(b) the address and folio identifier of the land to which the consent or right relates,	1-5 Charles Street, Arncliffe Lot 11 DP6602, Lot A in DP954947 and Lot B in DP 954947
(c) a description of the consent or right to be modified or surrendered,	Development application (DA-2023/50) relates to demolition of all existing structures, tree removal, site amalgamation, and construction of a nine (9) storey residential flat building comprising fifty (50) build-to-rent residential apartments, three levels of basement parking and associated landscaping with a common terrace on Level 8. DA-2023/50 was approved on 13 February 2024 by Bayside Council.
(d) whether the consent or right will be modified, including details of the modification, or surrendered,	The application relates to 1-5 Charles Street, Arncliffe (the site). It is noted that a development application for a 9- storey apartment with 50 apartments (DA-2023/50) was approved on 13 February 2024. This application seeks to amend this consent for an additional one level of basement

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67 Modification or surrender of development consent or existing use right—the Act, s 4.17(5)	Comment
	utilising the affordable housing bonus provisions permitted under the <i>State Environmental Planning Policy (Housing) 2021</i> (Housing SEPP).
	Refer to Attachment 1 for a list of conditions that require modification as a result of this application.
(e) if the person giving the notice is not the owner of the land—a statement signed by the owner of the land that the owner consents to the modification or surrender of the consent or right.	Owner's consent was provided at the lodgement of the DA.
(3) The notice takes effect when the consent authority gives written notice to the person giving the notice that the consent authority received the notice.	Noted.
(4) The notice operates, according to its terms, to modify or surrender the development consent or existing use right to which it relates.	Noted.
(5) The consent of the owner is not required under subsection (2)(e) if the consent of the owner of the land was not required under section 23 to make the application for the development consent.	Noted.
(6) In this section— <i>existing use right</i> means a right conferred by the Act, Division 4.11.	Noted.

We trust that the above information is sufficient for the progression of the application. Should you require any further information, please do not hesitate to contact the undersigned.

Yours sincerely



Stephen Kerr
Executive Director



Attachment 1

Conditions to be Amended

Prepared by Gyde Consulting

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SCHEDULE 1 – CONDITIONS OF CONSENT

The above development has been approved pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the following conditions:

GENERAL CONDITIONS

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan No.	Revision No.	Plan Title.	Drawn By.	Date of Plan
Architectural Plans DA0.01	H	Cover Sheet	Marchese Partners	18/03/2024
DA1.05	C	Site Plan		22/04/2024
DA1.06	G	Tree Plan		16/02/2023
DA2.00	M	Basement 4		13/09/2024
DA2.01	L	Basement 3		06/09/2024
DA2.02	L	Basement 2		06/09/2024
DA2.03	M	Basement 1		06/09/2024
DA2.04	N	Ground Level		06/09/2024
DA2.05	H	Level 1		18/03/2024
DA2.06	H	Level 2		18/03/2024
DA2.07	H	Level 3		18/03/2024
DA2.08	H	Level 4		18/03/2024
DA2.09	H	Level 5		18/03/2024
DA2.10	H	Level 6		18/03/2024
DA2.11	H	Level 7		18/03/2024
DA2.12	H	Level 8		18/03/2024
DA2.13	H	Level 9		18/03/2024
DA2.14	H	Level 10		18/03/2024
DA2.15	H	Roof Level		18/03/2024
DA3.01	G	Elevation - North		26/04/2024
DA3.02	G	Elevation – South		26/04/2024
DA3.03	G	Elevation – East		26/04/2024
DA3.04	G	Elevation - West		26/04/2024
DA4.01	G	Section A-A		13/09/2024

DA4.02	F	Section B-B		22/04/2024
DA4.03	H	Section C-C		13/09/2024
DA4.04	F	Sections Through Corridors		22/04/2024
DA4.05	G	Parking Ramp Section		13/09/2024
DA4.06	F	Loading Dock Section		22/04/2024
DA8.01	G	Material Board		16/02/2023
DA8.02	G	Exterior Finishes		16/02/2023
DA8.03	D	Privacy Screening		28/07/2023
Landscape Plan 000	B	Cover Sheet	Site Image Landscape Architects	17/03/2025
001	A	Tree Management Plan		10/05/2024
C101	B	Ground Floor		27/02/2025
C102	B	Level 10		17/03/2025
201	A	Ground Floor		10/05/2024
202	B	Level 10		17/03/2025
301	A	Ground Floor		10/05/2024
302	B	Level 10		17/03/2025
Stormwater Plan SW001	D	Title Page, Notes and Drainage Details	Mance Arraj	16/09/2024
SW010	C	Basement Level 3	Mance Arraj	16/09/2024
SW012	A	Step Iron and Oil Water Separator	Mance Arraj	22/04/2024
SW020	D	Ground Floor	Mance Arraj	29/05/2024
SW021	D	WSUD Catchment Plan	Mance Arraj	16/09/2024
SW022	C	Storm filter Tank Plan	Mance Arraj	22/04/2024
SW023	A	Gutter Flow	Mance Arraj	25/07/2023
SW024	A	Driveway Long Sections	Mance Arraj	25/07/2023
SW030	D	Layout and OSD	Mance Arraj	16/09/2024
SW031	B	OSD Discharge control pits	Mance Arraj	25/07/2023
SW032	C	OSD Catchment	Mance Arraj	16/09/2024
SW040	C	Roof level	Mance Arraj	16/09/2024

		stormwater drainage layout		
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Approved Documents			
Document Title.	Version No.	Prepared By.	Date of Document
ESD Report	FinalV5	Efficient Living	29/05/2024
BCA	1	East Coast Approvals Group Pty Ltd	13/05/2024
Arborist Report	1.1	Arborist Network	13/04/2024
Access Report	Original for DA	East Coast Approvals Group Pty Ltd	24/04/2024
Acoustic Report	2	Acoustic Logic	08/06/2024
Traffic Report	G	Transport and Traffic Planning Associates	September 2024

In the event of any inconsistency between the approved plans and documents, the approved plans prevail.

In the event of any inconsistency with the approved plan and a condition of this consent, the condition prevails.

10. Parking Allocation

Parking spaces and associated facilities shall be provided and allocated in accordance with the approved drawings / following table.

Use	Number of Spaces Allocated
Residential	
Residential units	A total of 59 car parking spaces allocated as per the following: 0.4 space per 1 bedroom unit (affordable) 0.5 space per 2 bedroom unit (affordable) 1 space per 3 bedroom unit (affordable) 0.5 space per 1 bedroom unit 1 space per 2 bedroom unit 1.5 space per 3 or more bedroom unit
Residential visitor	11 visitor spaces (including 1 shared use with car wash bay)
Car Wash Bay	1 car wash bay shared with visitor parking space
Loading Bay	1 SRV Loading Bay
Motorcycle parking	4 spaces
Bicycle parking	32 spaces

The above allocation must be adhered and complied with at all times and shall be reflected in any subsequent Strata subdivision of the development.

All residential visitor spaces, car wash bays and loading bays shall be stated as common property on any Strata plan for the site.

All residential accessible parking spaces shall be allocated to adaptable dwelling units.

Any tandem / stacked parking spaces shall be allocated to a single residential / commercial unit only.

14. General Terms of Approval (Council to update the highlighted dates as per new GTAs)

The development shall be carried out in accordance with the requirements of the General Terms of Approval (GTA) outlined below.

Approval Body	Date of GTA
NSW Office of Water	29/08/2023
Ausgrid	02/08/2023
Sydney Water	08/06/2023
Sydney Airport Corporation Ltd	05/06/2023

A copy of the requirements of the approval Authority is attached to this consent.

15. Sydney Airport (Council to update these conditions as per new GTA)

The following conditions are imposed by the Sydney Airport Corporation Limited (SACL) in their letter dated 5 June 2023 and must be complied with:

- a. The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc., and

- b. Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
- c. Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.
- d. Sydney Airport advises that approval to operate construction equipment (i.e., cranes) should be obtained prior to any commitment to construct.

The approved height of **45.3 metres** Australian Height Datum (AHD) is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

Note: Under Section 186 of the *Airports Act 1996*, it is an offence not to give information to the Airport Operator that is relevant to a proposed “controlled activity” and is punishable by a fine of up to 50 penalty units.

For further information on Height Restrictions please contact SACL on 9667 9246.

16. Ausgrid (Council to update these conditions as per new GTA)

The following conditions are imposed by Ausgrid in their letter and must be complied with:

a. Ausgrid Underground Cables are in the vicinity of the development.

Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways. It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD).

In addition to DBYD the proponent should refer to the following documents to support safety in design and construction:

SafeWork Australia – Excavation Code of Practice.

Ausgrid’s Network Standard NS156 which outlines the minimum requirements for working around Ausgrid’s underground cables.

The following points should also be taken into consideration.

Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.

Should ground anchors be required in the vicinity of Ausgrid underground cables the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable, and

b. Ausgrid Overhead Powerlines are in the vicinity of the development.

The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.

The “as constructed” minimum clearances to the mains must also be maintained.

These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website at www.ausgrid.com.au.

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer’s cost.

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid Assets - Clearances”. This document can be found by visiting the following Ausgrid website:

www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries

For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable.

Visit the Ausgrid website for further details:

<https://www.ausgrid.com.au/Connections/Get-connected>

17. Sydney Water (Council to update these conditions as per new GTA)

The following conditions are imposed by Sydney Water in their letter dated 8 June 2023 and must be complied with:

a. Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92, and

b. Building Plan Approval

The approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Tap in™ service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

Sydney Water recommends developers apply for Building Plan approval early as in some instances the initial assessment will identify that an Out of Scope Building Plan Approval will be required.

c. Out of Scope Building Plan Approval

Sydney Water will need to undertake a detailed review of building plans:

1. That affect or are likely to affect any of the following:
 - Wastewater pipes larger than 300mm in size
 - Pressure wastewater pipes
 - Drinking water or recycled water pipes
 - Our property boundary

- An easement in our favour
- Stormwater infrastructure within 10m of the property boundary.

2. Where the building plan includes:

- Construction of a retaining wall over, or within the zone of influence of our assets
- Excavation of a basement or building over, or adjacent to, one of our assets
- Dewatering – removing water from solid material or soil.

The detailed review is to ensure that:

- our assets will not be damaged during, or because of the construction of the development,
- we can access our assets for operation and maintenance,
- your building will be protected if we need to work on our assets in the future.

The developer will be required to pay Sydney Water for the costs associated with the detailed review.

d. Tree Planting

Certain tree species placed in close proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Sydney Water requires that all proposed or removed trees and vegetation included within the proposal adhere to the specifications and requirements within Section 46 of the Sydney Water Act (1994) and Diagram 5 – Planting Trees within our Technical guidelines – Building over and adjacent to pipe assets. Please note these guidelines include more examples of potential activities impacting our assets which may also apply to your development.

If any tree planting proposed breaches our policy, Sydney Water may need to issue an order to remove every tree breaching the act, or directly remove every tree breaching the Act and bill the developer or Council for their removal.

18. Water NSW (Council to update these conditions as per new GTA)

The following conditions are imposed by WaterNSW in their letter dated 29 August 2023 and must be complied with:

a. Dewatering

- GT0115-00001
Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
- GT0116-00001

Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity
Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.

- iii. GT0117-00001
A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
- iv. GT0118-00001
If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waterNSW.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
- v. GT0119-00001
All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
- vi. GT0120-00001
The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that

may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0m below the natural ground surface.

vii. GT0121-00001

Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.

viii. GT0122-00001

Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme).

ix. GT0123-00001

Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or

published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.watarnsw.com.au/customer-service/waterlicensing/dewatering

- x. GT0150-00001
The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site – Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual.
- xi. GT0151-00001
Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- xii. GT0152-00001
This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- xiii. GT0155-00001
The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report.

PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

41. Aircraft Noise – Compliance with Submitted Report

Prior to issue of the Construction Certificate, the measures required in the acoustical assessment report prepared by Acoustic Logic dated 8 June 2024 shall be included in the construction drawings and in accordance with the provisions of AS 2021 - 2015: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction.

The work detailed in the report includes:

- a. Appropriate acoustic glazing to stated windows and doors, and
- b. Detailed roof and ceiling construction, and
- c. Wall and ceiling corner details, and
- d. External door specification.
- e. Acoustically treated mechanical ventilation

49. Detailed Design Stormwater Management Plan

Prior to the issue of any Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to the Bayside Council Director of City Futures (or delegate) for assessment and approval. Engineering design certification and drainage design calculations are to be submitted with the plans. Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

The detailed drainage design plans shall incorporate the provisions generally made in the stormwater concept plans prepared by MANCE ARRAJ, project/job number 2993-DA, dated 16/09/24, issue D along with the revisions/requirements detailed below:

- a. The basement must be designed as a fully “tanked” structure and this must be clearly shown on the plans. If subsoil drainage is permitted to be provided around the subsurface structure, the subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure but must not be connected to the internal drainage system. No groundwater is permitted to enter the subsurface structures and, no pump-out system is permitted to be used to drain and discharge groundwater from the subsurface structures. The pump-out can only be utilized to dispose stormwater runoff that may enter the basement carpark from driveway access to the basement.
- b. The design of the drainage extension in Charles Street shall be revised to ensure there is no impact to existing street trees.
- c. The catchment for the gutter flow calculations is not correct as a greater catchment of Kyle Street drains into Charles Street. The gutter flow analysis is to be revised to the satisfaction of Council and be in accordance with section 8.2 of Rockdale Technical Specification Stormwater Management.
 - i. The 1 in 100 year flow discharge is to be determined using the Rational Method in DRAINS;
 - ii. The depth of flow is to be determined using DRAINS;
 - iii. The driveway crest level within the property is to be at least 100mm above the 1 in 100 year flow level and confirmed on the plans.
- d. The plans shall be amended to include the provision of a minimum 10,000L rainwater tank connected to all ground floor toilet flushing, the cold water tap that supplies the clothes washing machines on the ground floor, the car wash bay, and the landscape irrigation system for non-potable stormwater re-use. Only non-trafficable roof drainage shall be directed to the rainwater tank. Overflow from the rainwater tank to be directed to the OSD.

57. Geotechnical Certification

Prior to the issue of any Construction Certificate, a Geotechnical Engineer must:

- a. Review and ensure the appropriate construction methodology, parameters, and recommendations in the geotechnical report prepared by JC Geotechnics PTY LTD, document ID GR1389.1J, dated **20 September 2024**, have been implemented and relied upon during the preparation of the Construction Certificate plans and documentation.
- b. Provide detailed recommendations to allow the satisfactory implementation of the works.
 - i. The appropriate means of any excavation/shoring is to be determined and detailed considering the proximity to adjacent property and structures.
 - ii. Potential vibration caused by the method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be discussed and ameliorated.
 - iii. Review and certify the proposed method to temporarily and permanently support any excavation adjacent to adjoining property, structures, and road reserve if nearby (full support to be provided within the subject site).
 - iv. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.
- c. Prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure.
- d. Certify that the construction certificate plans and supporting documentation are satisfactory from a geotechnical perspective.
- e. Inspect the works as they progress at frequencies determined by the geotechnical engineer (where necessary).

The professional recommendations shall be implemented in full during the relevant

stages of excavation and construction.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.

64. Detailed Landscape Plan

All Construction Certificate documentation shall depict the TPZ's of all trees to be retained as per arborist report prepared by Arborist Network -mark Hartley- dated **13th April 2024**. The trees to be retained are the following: N1, N2, and N3. AS4970-2009 section 3 requires a Tree Protection Zone (TPZ) setback of 2.5 metres (m) from centre of trunk (COT) of each tree to be retained.

DEVELOPMENT APPLICATION
1-5 CHARLES ST
CHARLES STREET 5, ARNCLIFFE NSW 2205

NO	TITLE	REV	NO	TITLE	REV
DA0.00	PRELIMINARIES		DA5.08	VIEWS FROM THE SUN 9AM	B
DA0.01	COVER SHEET	H	DA5.09	VIEWS FROM THE SUN 10AM	B
DA0.02	GENERAL NOTES	G	DA5.10	VIEWS FROM THE SUN 11AM	B
			DA5.11	VIEWS FROM THE SUN 12PM	B
DA1.00	SITE PLANS		DA5.12	VIEWS FROM THE SUN 1PM	B
DA1.01	SURVEY	B	DA5.13	VIEWS FROM THE SUN 2PM	B
DA1.03	SITE LOCATION	B	DA5.14	VIEWS FROM THE SUN 3PM	B
DA1.04	SITE ANALYSIS	B	DA5.20	GFA CALCULATION	B
DA1.05	SITE PLAN	C	DA5.21	SOLAR ACCESS	B
			DA5.22	CROSS VENTILATION	B
DA1.50	DEMOLITION PLANS&ELEVATIONS		DA5.23	DEEP SOIL CALCULATION	B
DA1.51	BASEMENT 3 - AMENDMENT TO REMOVE	D	DA5.24	STORAGE DIAGRAM	B
DA1.52	BASEMENT 2 - AMENDMENT TO REMOVE	D	DA5.25	STORAGE SCHEDULE	B
DA1.53	BASEMENT 1 - AMENDMENT TO REMOVE	D	DA5.26	HEIGHT LIMIT PLANE	B
DA1.54	GROUND LEVEL - AMENDMENT TO REMOVE	D	DA5.27	HEIGHT COMPLIANCE PLAN	B
DA1.55	LEVEL 1 - AMENDMENT TO REMOVE	D	DA5.28	EXISTING CONTEXT 3D VIEW	B
DA1.56	LEVEL 2 - AMENDMENT TO REMOVE	D	DA5.29	NEW CONTEXT 3D VIEW	C
DA1.57	LEVEL 3 - AMENDMENT TO REMOVE	D	DA5.30	EXISTING CONTEXT 3D VIEW	B
DA1.58	LEVEL 4 - AMENDMENT TO REMOVE	D	DA5.31	NEW CONTEXT 3D VIEW	C
DA1.59	LEVEL 5 - AMENDMENT TO REMOVE	D	DA5.32	COMMUNAL OPEN SPACE	B
DA1.60	LEVEL 6 - AMENDMENT TO REMOVE	D	DA5.33	COMMUNAL AREAS SHADOW STUDY	B
DA1.61	LEVEL 7 - AMENDMENT TO REMOVE	D	DA5.34	COMMUNAL AREAS SHADOW STUDY	B
DA1.62	LEVEL 8 - AMENDMENT TO REMOVE	D	DA5.35	LANDSCAPE	B
DA1.63	LEVEL 9 - AMENDMENT TO REMOVE	D			
			DA6.00	ADAPTABLE UNITS	
DA2.00	FLOOR PLANS		DA6.01	ADAPTABLE UNIT PLAN - TYPE A	D
DA2.00	BASEMENT 4	M	DA6.02	ADAPTABLE UNIT PLAN - TYPES B&C	B
DA2.01	BASEMENT 3	L	DA6.03	SILVER LEVEL UNITS	B
DA2.02	BASEMENT 2	L			
DA2.03	BASEMENT 1	M	DA7.00	VIEWS & PHOTOMONTAGES	
DA2.04	GROUND LEVEL	N	DA7.01	CGI 1	B
DA2.05	LEVEL 1	H	DA7.02	CGI 2	C
DA2.06	LEVEL 2	H			
DA2.07	LEVEL 3	H	DA10.00	RFI	
DA2.08	LEVEL 4	H	DA10.03	SETBACK DIAGRAMS	B
DA2.09	LEVEL 5	H	DA10.04	SETBACK DIAGRAMS	A
DA2.10	LEVEL 6	H			
DA2.11	LEVEL 7	H			
DA2.12	LEVEL 8	H			
DA2.13	LEVEL 9	H			
DA2.14	LEVEL 10	H			
DA2.15	ROOF LEVEL	H			
DA3.00	ELEVATIONS				
DA3.01	ELEVATION - NORTH	G			
DA3.02	ELEVATION - SOUTH	G			
DA3.03	ELEVATION - EAST	G			
DA3.04	ELEVATION - WEST	G			
DA4.00	SECTIONS				
DA4.01	SECTION - SECTION A-A	G			
DA4.02	SECTION - SECTION B-B	F			
DA4.03	SECTION - SECTION C-C	H			
DA4.04	SECTIONS THROUGH CORRIDORS	F			
DA4.05	PARKING RAMP SECTION	G			
DA4.06	LOADING DOCK SECTION	F			
DA5.00	DIAGRAMS				
DA5.01	SHADOW ANALYSIS - JUNE 21ST 9.00 AM	D			
DA5.02	SHADOW ANALYSIS - JUNE 21ST 10.00 AM	D			
DA5.03	SHADOW ANALYSIS - JUNE 21ST 11.00 AM	D			
DA5.04	SHADOW ANALYSIS - JUNE 21ST 12.00 PM	D			
DA5.05	SHADOW ANALYSIS - JUNE 21ST 1.00 PM	D			
DA5.06	SHADOW ANALYSIS - JUNE 21ST 2.00 PM	D			
DA5.07	SHADOW ANALYSIS - JUNE 21ST 3.00 PM	D			

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F	05/06/2024	FOR APPROVAL	PS
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H	18/03/2024	CHANGES AFTER DRP MEETING	PS



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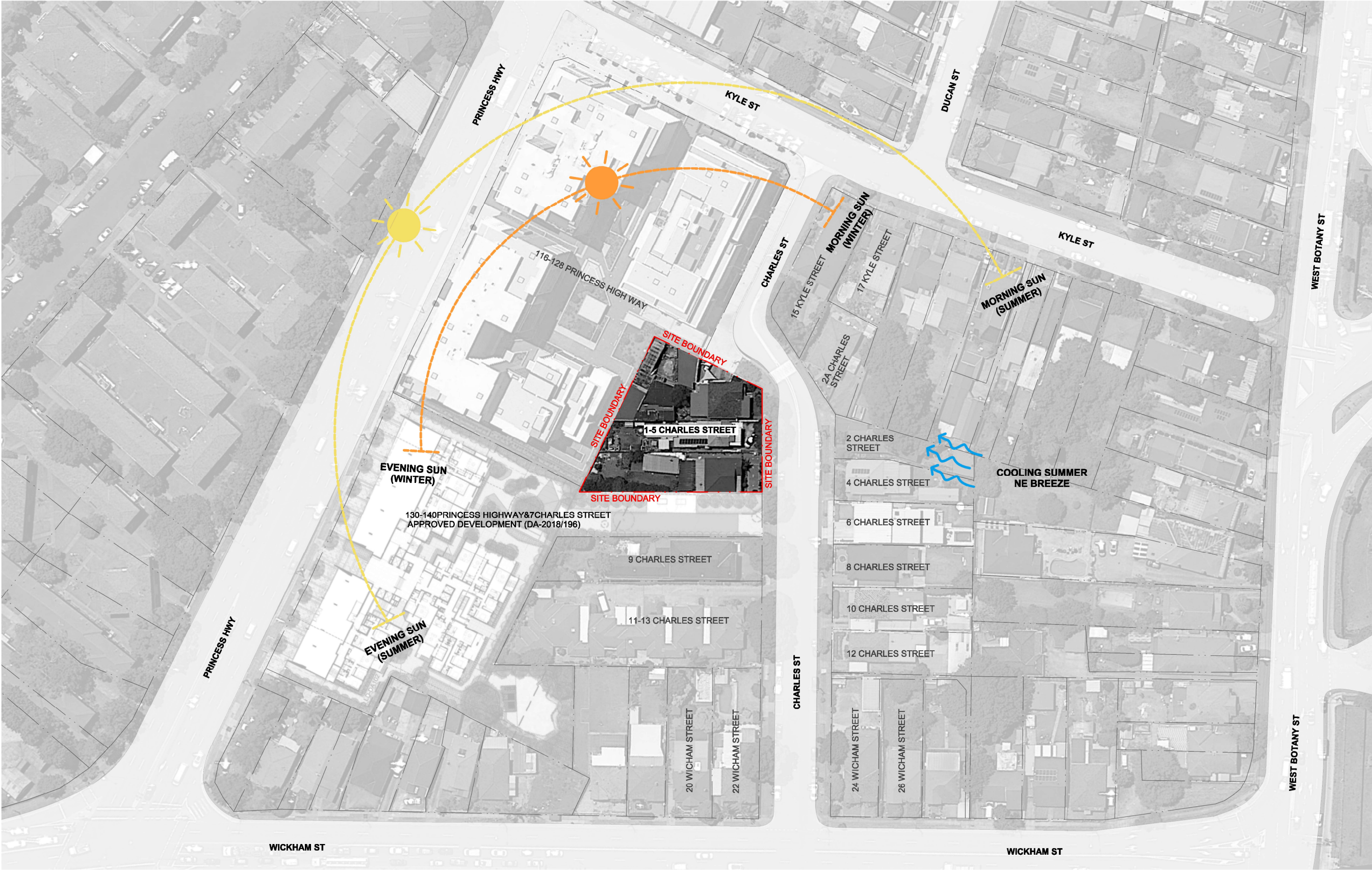
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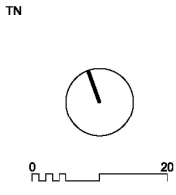


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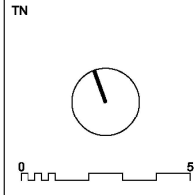
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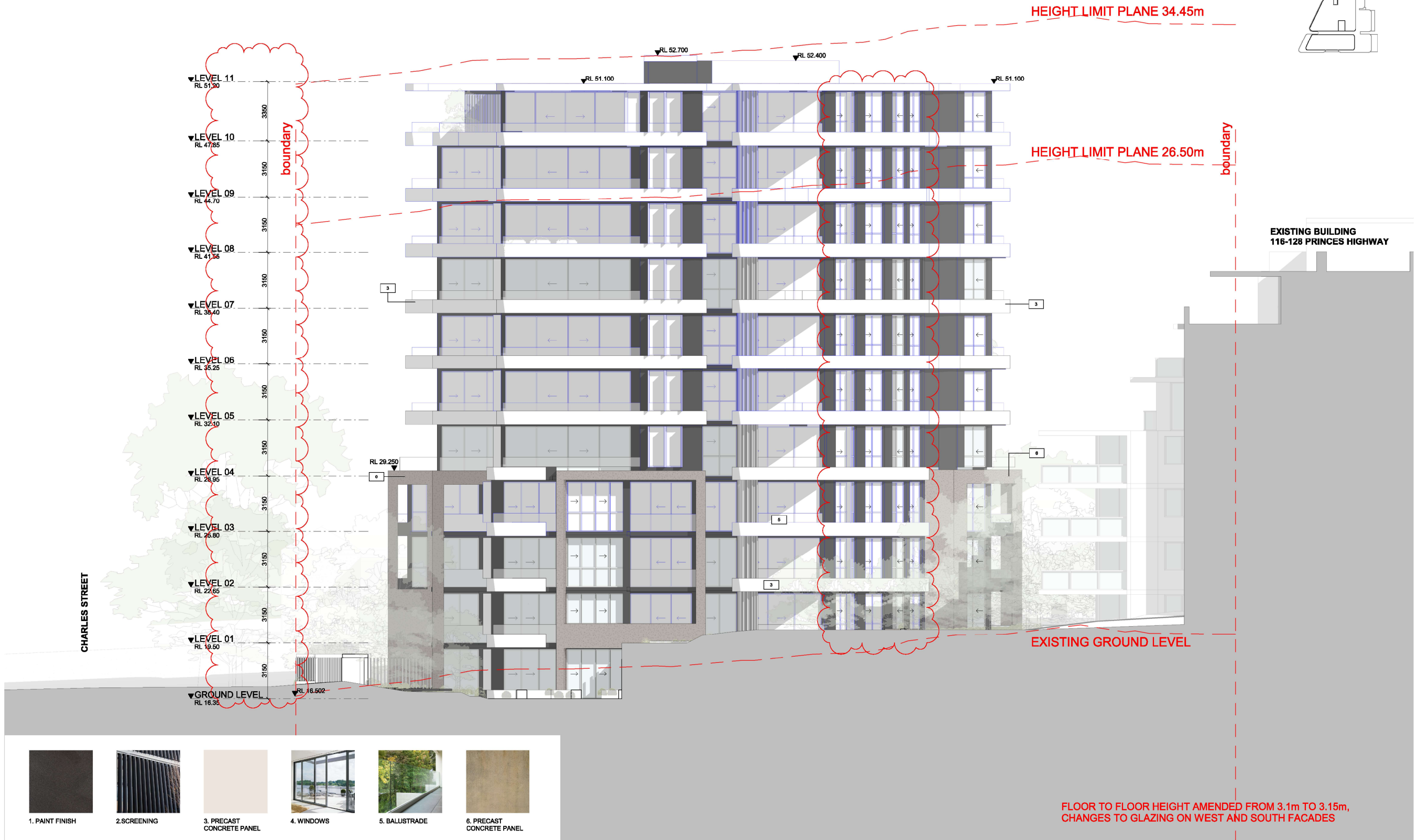
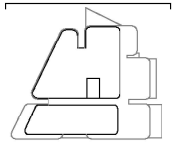
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SCALE 1:100 @A1 1:200 @A3 JOB 22018	DATE 18/03/2024 DRAWING DA2.15	DRAWN MH	CHECKED PS REVISION H
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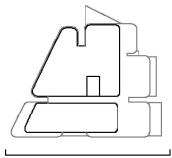
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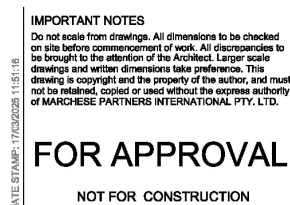
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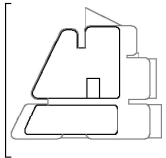


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DATE
26/04/2024

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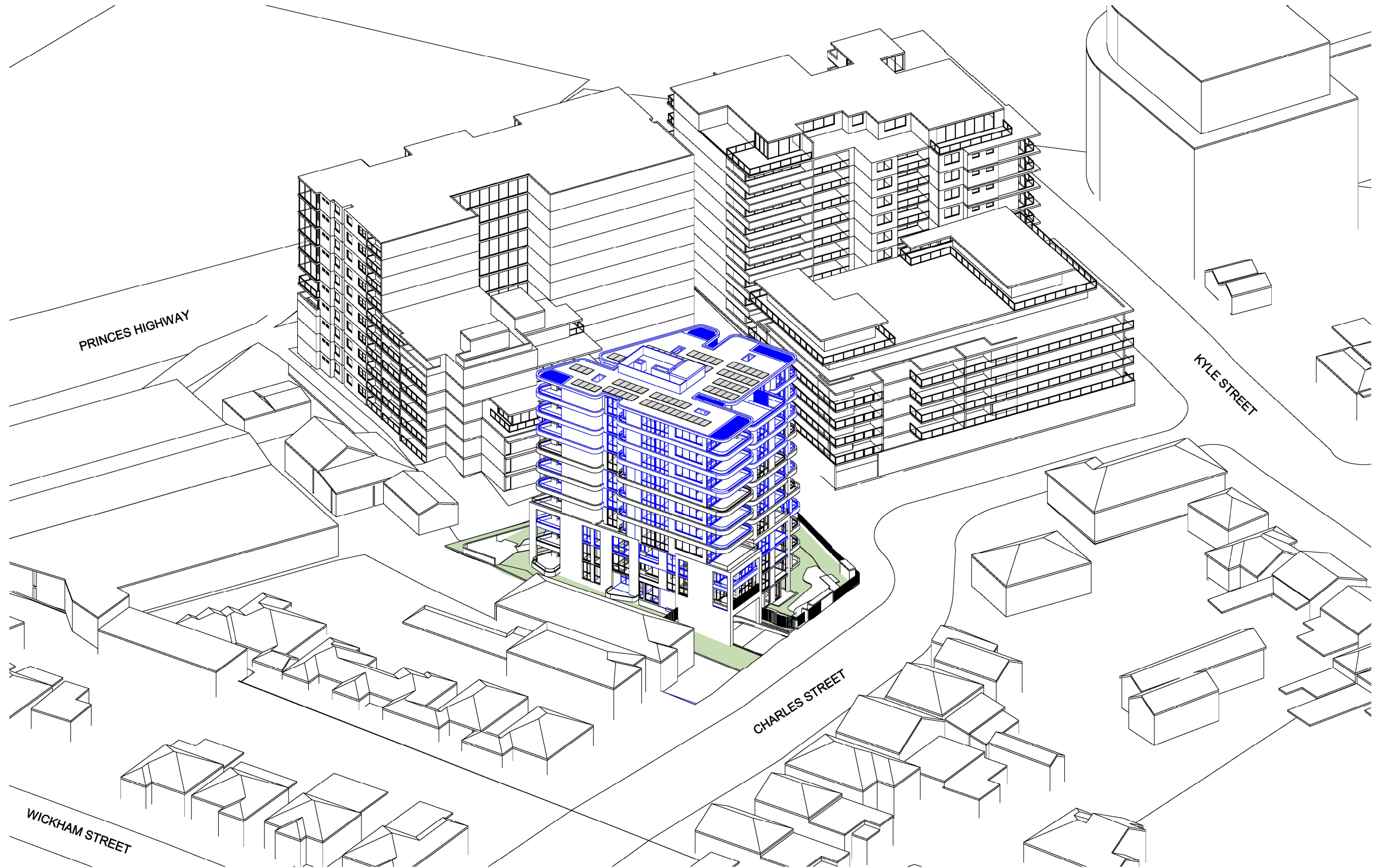
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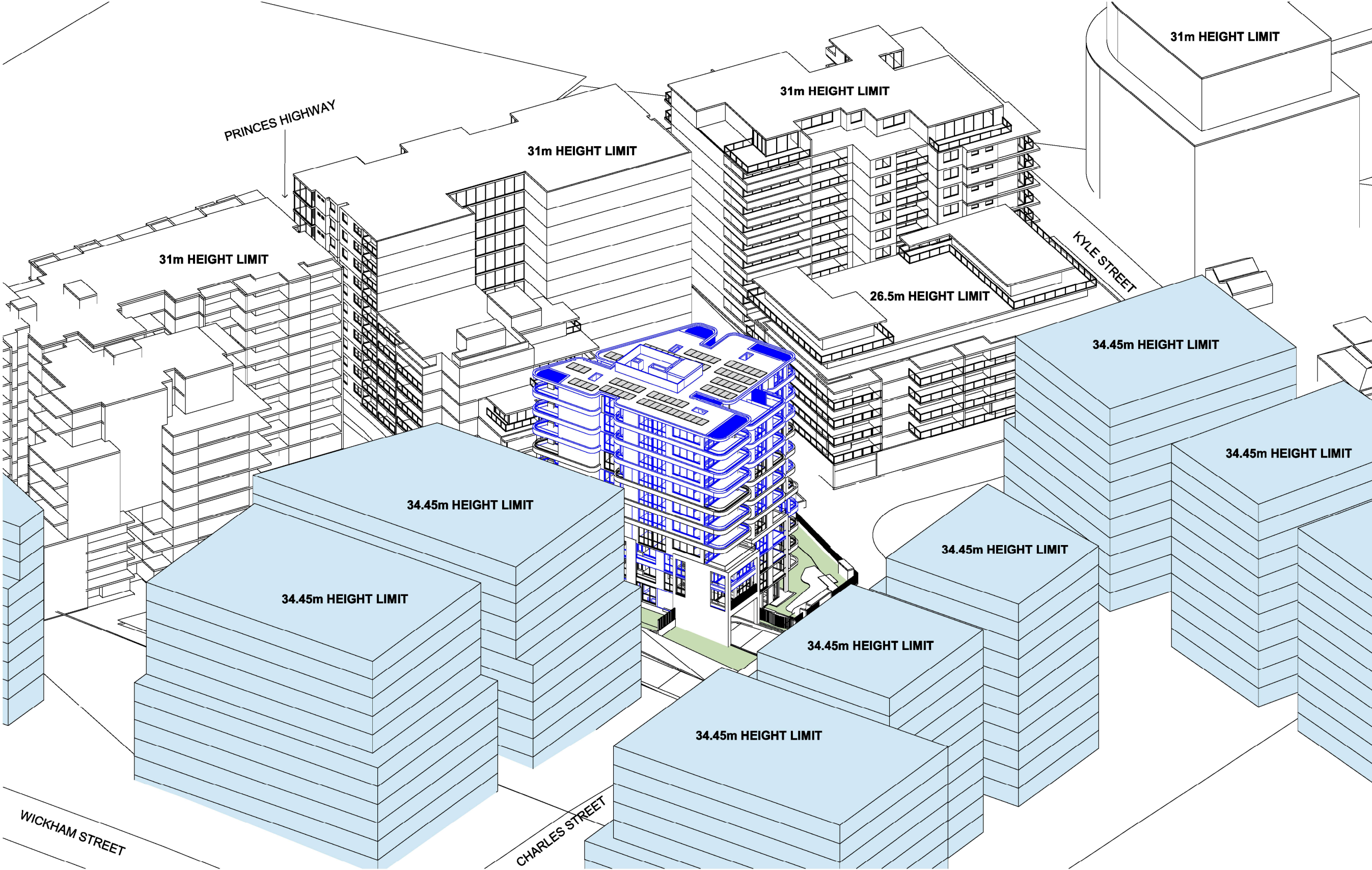
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PROJECT
1-5 CHARLES ST
CHARLES STREET 5, ARNCLIFFE
NSW 2205

DRAWING TITLE
EXISTING CONTEXT 3D VIEW

SCALE	DATE 22/04/2024	DRAWN MH	CHECKED PS
JOB 22018	DRAWING DA5.30	REVISION B	



IMPORTANT NOTES
Do not scale from drawings. All dimensions to be checked on site before commencement of work. All discrepancies to be brought to the attention of the Architect. Larger scale drawings and written dimensions take preference. This drawing is copyright and the property of the author, and must not be related, copied or used without the express authority of MARCHESE PARTNERS INTERNATIONAL PTY. LTD.

FOR APPROVAL
NOT FOR CONSTRUCTION

REV	DATE	DESCRIPTION	BY
A	04/03/2024	FOR COORDINATION	PS
B	22/04/2024	FOR APPROVAL	PS
C	08/05/2024	FOR APPROVAL	PS

marchesepartners **Life^{3A}**

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CLIENT
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PROJECT
1-5 CHARLES ST
CHARLES STREET 5, ARNCLIFFE
NSW 2205

DRAWING TITLE NEW CONTEXT 3D VIEW			
SCALE	DATE 08/05/2024	DRAWN MH	CHECKED PS
JOB 22018	DRAWING DA5.31	REVISION C	



IMPORTANT NOTES
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FOR APPROVAL
NOT FOR CONSTRUCTION

REV	DATE	DESCRIPTION	BY
A	04/03/2024	FOR COORDINATION	PS
B	22/04/2024	FOR APPROVAL	PS
C	26/04/2024	FOR APPROVAL	PS

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PROJECT
**1-5 CHARLES ST
CHARLES STREET 5, ARNCLIFFE
NSW 2205**

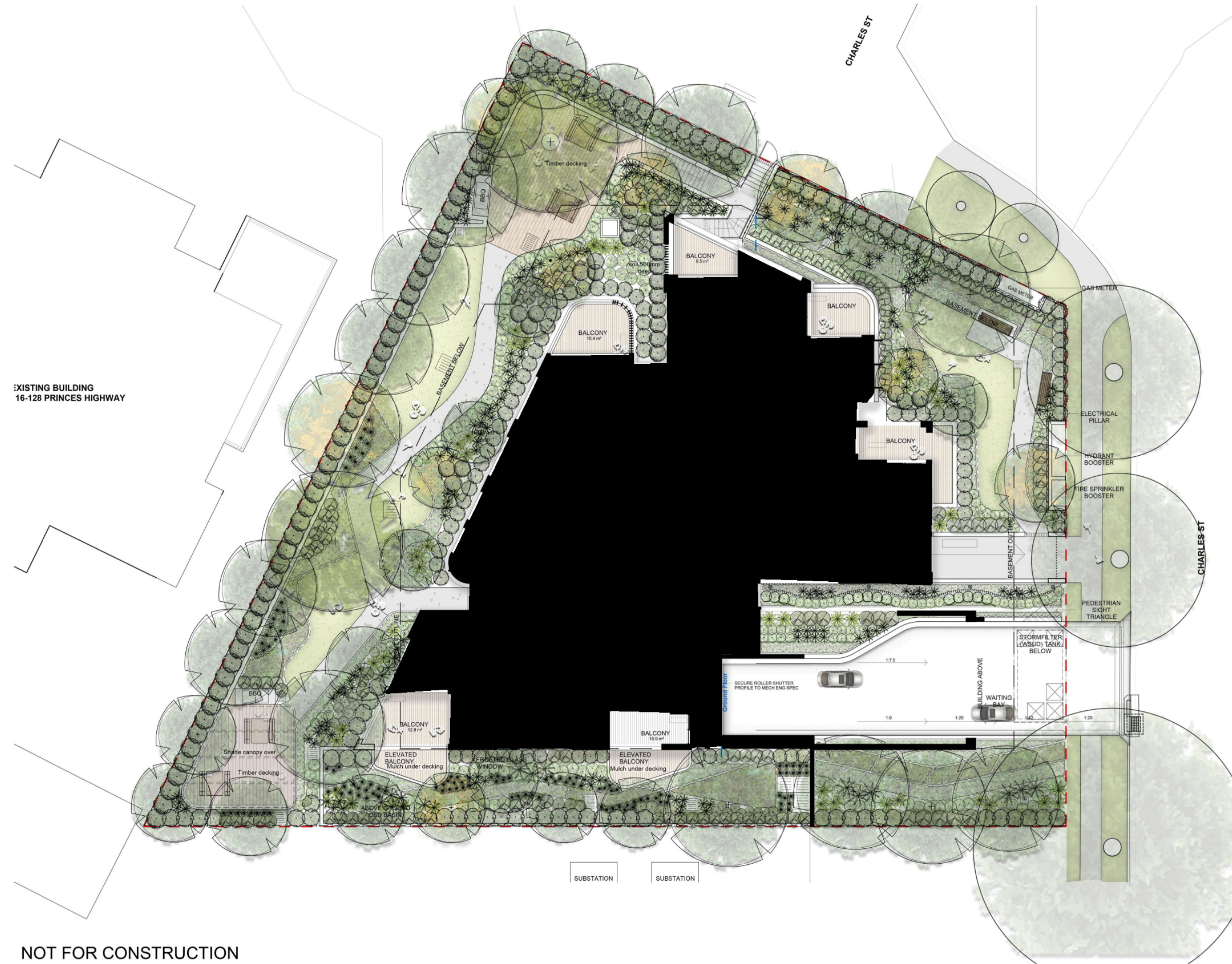
DRAWING TITLE
CGI 2

SCALE
22018

DATE
26/04/2024
DRAWING
DA7.02

DRAWN
MH

CHECKED
PS
REVISION
C



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The contractor shall check and verify all work on site (including work by others) before commencing the landscape installation. Any discrepancies are to be reported to the Project Manager or Landscape Architect prior to commencing work. Do not scale this drawing. Any required dimensions not shown shall be referred to the Landscape Architect for confirmation.

B	Amended DA	MJW	RS	27.02.2025
A	Amended DA	MJW	RS	10.05.2024
Issue	Revision Description	Drawn	Check	Date

Legend

- Existing Tree to be Retained & Protected
- Existing Tree to be Removed
- Proposed Trees (Refer plant schedule)
- Proposed Accent / Shrub Planting (Refer plant schedule)
- Ground cover (Refer plant schedule)
- Turf
- Paving Type 1 Concrete and paver
- Paving Type 2 Interlocking concrete paving
- Paving Type 3 Timber decking
- Bench Seating - Draht 'Yankee' range
- Curve Seating - Draht 'Yankee' range
- Table & Seating - Airo table range
- BBQ - 'Christie Icon' Series
- 1800 Lapped & Capped Timber Paling Fence
- 1800 Metal Palisade Fence & Gate
- 600 Proposed Soil Depth / Deep Soil
- Boundary line

Key Plan

Client
Charles Street Holdings NSW Pty Ltd

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1-5 Charles Street Arncliffe

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Redfern NSW 2016
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DEVELOPMENT APPLICATION

Drawing Name
Landscape Colour Plan
Ground Floor / Level 1

Scale 1:100 @ A1
Job Number
SS22-4972.1
Drawing Number
C101 B